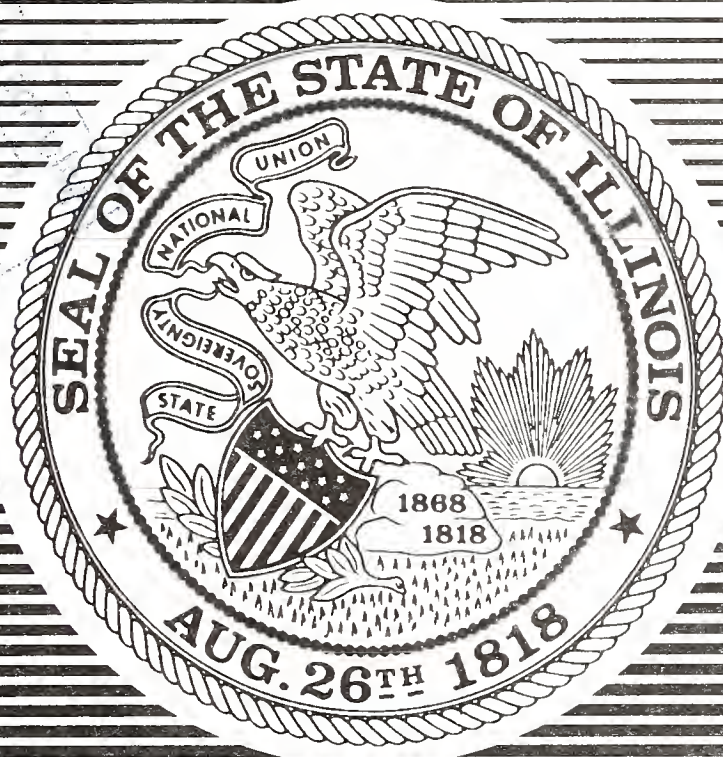


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RULES
OF GOVERNMENTAL
AGENCIES



Volume 25, Issue 47
November 26, 2001

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Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

Issue 16-April	14, 2000:	Data Through March	31, 2000
Issue 29-July	14, 2000:	Data Through June	30, 2000
Issue 42-October	13, 2000:	Data Through September	30, 2000
Issue 3-January	19, 2001:	Data Through December	31, 2000 (Annual)

Rules acted upon in Issue 47 are listed in the Issues Index by Title number, part number and Issue Number. The letter “R” designates a rule that has been repealed. Inquiries about the Issue Index may be directed to the Administrative Code Division at 217-782-4414.

PROPOSED

62-300-47
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ADOPTED

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71-2005-47

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Surface Mined Land Conservation and Reclamation Act
- 2) Code Citation: 62 Ill. Adm. Code 300
- 3) Section Numbers:
- | | |
|---------|-------------------------|
| 300.10 | <u>Proposed Action:</u> |
| 300.20 | Amend |
| 300.30 | Amend |
| 300.40 | Amend |
| 300.50 | Amend |
| 300.70 | Amend |
| 300.90 | Amend |
| 300.95 | New |
| 300.110 | Amend |
| 300.160 | Amend |
| 300.180 | Amend |

- 4) Statutory Authority: Implementing and authorized by the Surface Mined Land Conservation and Reclamation Act [225 ILCS 715].

- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments implement changes to the aggregate reclamation program and to make provisions for local government input on bonding decisions brought about by the signing of Public Act 91-938.

- 6) Will this rulemaking replace any emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Cindy Bushur-Hallam
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

- 12) Initial Regulatory Flexibility Analysis:

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NOTICE OF PROPOSED AMENDMENTS

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rule was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 300

SURFACE MINED LAND CONSERVATION AND RECLAMATION ACT

SUBPART A: SURFACE MINED LAND CONSERVATION AND RECLAMATION ACT

Section	Introduction
300.10	Permits
300.20	Fees
300.30	Bonds
300.40	Permit Application Requirements
300.50	Role of County Government in Reclamation
300.60	Departmental Consideration of Reclamation Plans
300.70	Public Filing of Approved Plans
300.80	Amendments to Permits
300.90	Transfer of Permits
300.95	Reclamation Planning
300.100	General Reclamation Requirements
300.110	Criteria For Types of Land Reclamation
300.120	Reclamation of Gob Disposal Areas and Outside Slopes of All Overburden Deposition Areas
300.130	Reclamation of Slurry Pond Disposal Areas
300.140	Water Impoundment Structures
300.150	Affected Acreage Map
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300.170	Bond Release Procedure
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SUBPART B: USE OF EXPLOSIVES IN NON-COAL MINERAL EXTRACTION OPERATIONS

Section	Scope of this Subpart
300.200	Purpose
300.205	Definitions Applicable to Subpart B
300.210	General Requirements
300.215	Monitoring
300.220	Use of Explosives; Control of Adverse Effects
300.225	Use of Explosives; Blasting Signs, Warnings and Access Control
300.230	Training
300.235	Examination
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AUTHORITY: Implementing and authorized by the Surface Mined Land Conservation and Reclamation Act [225 ILCS 715].

SOURCE: Adopted January 6, 1976; codified at 8 Ill. Reg. 41 7; amended at 14 Ill. Reg. 3548, effective February 22, 1990; amended at 20 Ill. Reg. 9546, effective July 1, 1996; recodified from the Department of Mines and Minerals to the Department of Natural Resources at 21 Ill. Reg. 16192; amended at 22 Ill. Reg. 8407, effective April 28, 1998; amended at 23 Ill. Reg. 11231, effective August 26, 1999; amended at 26 Ill. Reg. _____, effective _____.

NOTE: In this Part, unless the context clearly indicates otherwise, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

SUBPART A: SURFACE MINED LAND CONSERVATION AND RECLAMATION ACT

Section 300.10 Introduction

a) Authority

This Subpart implements the Surface Mined Land Conservation and Reclamation Act of 1971. This Part applies to all surface mining activity conducted in the State. Any rules previously promulgated pursuant to the Act are declared null and void on January 6, 1976. Upon approval, conditional or unconditional, of the Illinois permanent program by the Secretary of the Interior, the following rules and statutory provisions become inapplicable to operations mining coal: Rules 201-5, 301-2, 401-3, 501-2, 601-2, 701-9, 801-2, 901-2, 1001-2, and 1201-3, and Sections 4, 5, 8, 11, and 12 of the Surface Mined Land Conservation and Reclamation Act. Eight months after the date of such approval, the remainder of this Part shall become inapplicable to operations mining coal.

b) Definitions

Whenever used or referred to in this Subpart, unless a different meaning clearly appears from the context:

"Acid forming materials" means those materials capable of producing toxic conditions when exposed.

"Act" means the Surface Mined Land Conservation and Reclamation

DEPARTMENT OF NATURAL RESOURCES

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Act (the Act).

"Affected land" in addition to the meaning described in the Act means an area of land from which, on or after September 17, 1971, overburden is removed for surface mining or upon which overburden or refuse is deposited. It also means any area of land utilized at surface coal mines for drainage ditches, haulage roads, earth stockpile areas, and borrow pits. ~~7-study-pend-impoundments, and gob-disposal-areas--which--are--constructed--created--extended, enlarged, or expanded on or after September 17, 1971, with regard to--any--or--pre-existing-surface-mining-operation-or-related activity.~~

"Amendment" means any request by a holder of a surface mining permit issued by the Department to the Department to change such permit by adding or transferring acreage within a geographically distinct mining site covered by that permit. This definition shall not be construed to include an alteration or correction of an application for a permit under Section 300.20(e)(3) of this Part.

"Area coal strip mines" means those mines whose operations involve more than five cuts in an unmined topography with slopes less than 20% grade.

"Boxcut" means the first open cut which results in the placing of overburden on unmined land adjacent to the initial pit and normally outside of the area to be mined.

"Consolidated materials" means materials of sufficient hardness or ability to resist weathering and to inhibit erosion or sloughing.

"Department" means Department of Natural Resources, or such department, bureau, or commission as may lawfully succeed to the powers and duties of such Department.

"Director" means the Director of the Department of Natural Resources or such officer, bureau, or commission as may lawfully succeed to the powers and duties of such Director.

"Final cut" means the last pit created in a surface mined area.

"Geographically distinct mining site" means pit or pits associated with the same processing plant, which have similar soil types, vegetation, topography and land uses.

"Gob" means that portion of refuse consisting of waste coal,

DEPARTMENT OF NATURAL RESOURCES

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rock, pyrites, slate, or other unmerchtable material of relatively large size which is separated from the mineral in the cleaning process.

"Haulage road" means the area upon which the mined mineral is moved by truck or other vehicles from the pit to either a preparation plant, or to the nearest public road whenever a preparation plant is not used; but, in no case, shall this definition be construed to include a public road.

"Highwall" means that side of the pit adjacent to unmined land.

"Interested persons" means any individual, partnership, corporation, association, or public or private organization which has made a timely request to the Director for notice with respect to ~~either rulemaking proceedings under Section 12 of the Act or a public hearing under Section 5(f) of the Act.~~ This definition shall be construed to include any county board which is entitled to notice under the Act or this Part.

"Operator" means any person, firm, partnership, or corporation engaged in and controlling a surface mining operation, and includes political subdivisions and instrumentalities of the State of Illinois.

"Overburden" means all of the earth and other materials which lie above natural deposits of coal, clay, stone, sand, gravel, or other minerals, and also means such earth and other materials disturbed from their natural state in the process of surface mining.

"Permit period" means the period of time from the date of issuance of the surface mining permit until the ~~tenth~~ ^{third} succeeding June 30 or until the termination date on the permit, if said date will occur prior to the ~~tenth~~ ^{third} succeeding June 30.

"Pit" means a tract of land, from which overburden has been or is being removed for the purpose of surface mining.

"Reclamation" means conditioning areas affected by surface mining to achieve the purpose of the Act and rules made pursuant thereto.

"Record" means, in the case where a hearing is held, that compilation of information presented to the Department in the matter, including, but not limited to, the transcript of any hearing and any prehearing conference held, submissions and

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documents, the original application for permit and other pertinent materials; in the case where no hearing is held, "record" means that compilation of information presented to the Department in the matter.

"Refuse" means all waste materials directly connected with the cleaning and preparation of minerals mined by surface mining and discarded equipment and machinery.

"Slurry" means that portion of refuse separated from the mineral in the cleaning process, consisting of fines and clays in the preparation plant effluent, and which is readily pumpable.

"Surface mining" means the mining of any minerals by removing the overburden lying above natural deposits thereof, and mining directly from the natural deposits thereby exposed, or the deposition of overburden therefrom.

"Surface mining permit" means a permit, granted by the Department, to engage in surface mining.

"Toxic conditions" means any conditions that will not support higher forms of plant or animal life in any place in connection with or as a result of the completion of surface mining.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 300.20 Permits

a) Who Must Apply For a Permit

- 1) A surface mining permit shall be required where:
 - A) Overburden exceeds ~~ten~~ 10 feet in depth, or
 - B) Where the surface mining and overburden area will affect more than ~~ten~~ 10 acres during the period of one ~~1~~ year which shall be measured from July 1 to June 30 of the following year.
- 2) Gob refuse disposal areas and slurry ponds created or laterally extended in conjunction with surface mining operations for which a permit is necessary as described in (a)(1) above shall be required to have Gob Refuse Disposal Permits or Slurry Pond Refuse Disposal Permits issued by the Department.

b) How to Calculate Affected Acreage

- 1) In order to calculate affected acreage for permit purposes under the Act and this Part, land shall be counted as being affected only one ~~1~~ time during the life of a bond, and said land shall be affected during the permit period it is initially mined or converted to refuse disposal use.

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- 2) "Affected land," following reclamation and release of bond, shall be considered to revert back to its original character as unmined land and should an application be made to reopen or remine the same land or a portion thereof, the same land shall be governed by the provisions of the Act as if such land never before had been mined or affected.

c) Types of Permits

- 1) The following types of permits shall be issued by the Department:
 - A) Surface Mining Permit
 - B) Gob Refuse Disposal Permit
 - C) Slurry Pond Refuse Disposal Permit
- 2) No operator who holds a permit to engage in surface mining by this Department may create or extend gob piles or slurry ponds for refuse disposal without a permit for such gob refuse or slurry pond refuse issued by the Department upon conditions consistent with the Act and this Part.

d) Where and How to Apply For a Permit

- 1) Applications, notices, and other communications under the Act and this Part shall be:
 - A) delivered to an authorized representative of the Surface Mined Land Reclamation Division of the Department, or
 - B) addressed to:

State-of-Illinois
Illinois Department of Natural Resources
Office of Mines and Minerals
Surface-Mined-Land-Reclamation-Division
One Natural Resources Way 524-S--Second-Street
Springfield, Illinois 62702-127162701-

- 2) For purposes of the Act and of this Part, applications, notices, and other communications shall be deemed to have reached the Department on that day when it is actually received by the Department or an authorized representative of ~~the~~ Surface--Mined Land-Reclamation-Division of the Department.
- 3) All forms submitted to the Department shall be executed by the operator, or his authorized representative.
- 4) A separate permit shall be required for each geographically distinct mining site.
- 5) A separate application shall be submitted for each type permit.
- 6) Applications for permits shall be submitted on official forms provided by the Department.

e) Validity Period of a Permit

- 1) Validity Period of a Permit
 - A) A surface mining permit shall be effective from the date of its issuance until the ~~tenth~~ third succeeding June 30, or

DEPARTMENT OF NATURAL RESOURCES

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until the termination date on the permit if said date will occur prior to the tenth ~~third~~ succeeding June 30.

B) A gob refuse disposal permit shall be valid from the date of issuance for the active life of the disposal area.

C) A slurry pond refuse disposal permit shall be valid from the date of issuance for the active life of the disposal area.

2) Mandatory Action by the Department; Notice of Later Decision

A) The Department shall take final action on an application and plan within ~~one-hundred-twenty~~-~~four~~ 120~~+~~ days after the date of the filing of an application for a permit under Section 300.60(a) of this Part. If no action on an application is taken by the Department within this time period, the permit applied for is deemed to be granted and the reclamation plan submitted with that application is deemed to be approved. But, if the Department gives written notice to the applicant that it will taken action later than ~~one-hundred-twenty~~-~~four~~ 120~~+~~ days after the date of the filing of an application for a permit, then the permit applied for is not deemed to be granted and the reclamation plan is not deemed to be approved when the ~~one-hundred-twenty~~-~~four~~ 120~~+~~ day period elapses.

B) In the event the Department gives written notice of a later decision (other than for a correction or alteration to an application as provided for in Section 300.20(e)(4)) the Department shall establish a reasonable time for the final action.

3) Applications for Refuse Disposal Permits

Applications for Refuse Disposal Permits are subject to the same requirements of the Act and this Part as are applicable to the applications for Surface Mining Permits, except as may otherwise be specifically provided by the Act or this Part.

4) Alterations or Corrections to Applications for Permits

The Department may from time to time require an applicant to alter or correct his application. Such requirement shall be in writing to the applicant and such written communication to the applicant shall be considered to be notice of a later decision under subparagraph (e)(2)(A) of this Section. A copy of such written requirement shall be sent by first class mail to the County Clerk at the county seat of each county containing lands to be affected under the permit applied for, with directions that such copy be forwarded to the residence of the presiding officer of the county board or commissioner. After such alteration or correction is made by the applicant, is received by the Department, and is deemed satisfactory to the Department, the ~~one hundred-twenty~~-~~four~~ 120~~+~~ day period begins again, less the number of days between the date of filing of the application for a permit and the date of notice given by the Department.

5) Penalties for Failure to Comply

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Anyone who engages in surface mining or any of its related activities without a permit as required by the Act and this Part is subject to the penalties set forth in the Act and in this Part.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 300.30 Fees

a) Fees Generally

Each application for a permit shall require a separate fee payment. Permit fees are not to accompany the application. After receipt of the application, the Department will request the permit fee before issuance of the permit. The fee shall be in the form of a check made payable to the Department of Natural Resources, Office of Mines and Minerals, State of Illinois.

b) Permit Fee Calculation

1) Surface Mining Permit

The fee for a surface mining permit shall be \$100 ~~\$50--plus--\$25~~ for every acre and fraction of an acre of land to be permitted ~~affected-during-the-permit-period~~. The permit fee shall only be paid once on an acre of land regardless of the number of permit periods it is mined, but with respect to areas where the overburden is to be removed again and upon which the surety bonds have been released, a new permit, fees, and bond will be required.

2) Refuse Disposal Permits

The fee for a gob refuse disposal permit and for a slurry pond refuse disposal permit shall be calculated in the same manner as the fee to engage in surface mining. The permit fee shall only be paid once on an acre of land regardless of the active life of a disposal area.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 300.40 Bonds

a) Bonds Generally

Bonds shall be in keeping with the Act and this Part. Each application for a permit shall require a separate bond. Bonds shall be issued to coincide with the permit period.

b) Bond Calculation

The amount of bond required to be filed with the Department before any surface mining or refuse disposal permit is issued shall be from \$600 to \$5,000 per acre or fractional part thereof, the exact amount to be determined by the Director after considering the various factors

DEPARTMENT OF NATURAL RESOURCES

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relating to the predictable reclamation cost. The Director shall notify the applicant of the amount of the bond which must be filed by the applicant before a permit will be issued.

c) Definitions

- 1) Bond means surety bond or other security in lieu thereof.
- 2) Surety bond means an indemnity agreement in a sum certain payable to the Department, executed by the permittee as principal and which is supported by the performance guarantee of a corporation licensed to do business as a surety in Illinois.
- 3) Other security means an indemnity agreement in a sum certain executed by the permittee as principal which is supported by the deposit with the Department of one or more of the following:
 - A) A cash account, which shall be the deposit of cash in one or more federally-insured or equivalently protected accounts, payable only to the Department upon demand, or the deposit of cash directly with the Department;
 - B) Negotiable government securities, endorsed to the order of, and placed in the possession of, the Department;
 - C) An irrevocable letter of credit of any bank organized or authorized to transact business in Illinois, payable only to the Department upon presentation;
 - D) Certificates of deposit, drawn on a federally insured bank, made payable or assigned to the Department and placed in its possession.

d) Bond Requirements

- 1) Form

Bonds required to be filed with the Department shall be in such form and content as the Director prescribes payable to the "People of the State of Illinois."
- 2) Conditions Generally
 - A) Each bond shall conform with the requirements of the Act and this Part and with the declared purpose for which the application for the permit is filed, and shall be in the amounts prescribed by the Act and established by the Director governing such purpose and the proposed area affected.
 - B) Bonds shall remain in effect until the affected lands have been reclaimed, approved and released by the Department, pursuant to the Act and this Part.
- 3) Surety Bond Requirements
 - A) Bonds shall be signed by the operator as principal, and by a good and sufficient corporate surety, approved by the Director and licensed to do business in Illinois as surety.
 - B) Each surety bond shall provide that the bond shall not be cancelled by the surety except after not less than ~~ninety~~ 90 days notice to the Department. Such notice shall be served upon the Department in writing by registered or certified mail to the following address:

DEPARTMENT OF NATURAL RESOURCES

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Illinois Department of Natural Resources
Office of Mines and Minerals
~~Land-Reclamation-Division~~
One Natural Resources Way 524-S--Second-Street
Springfield, IL 62702-127162701

- C) Not less than ~~ten~~ 10 days prior to the expiration of the ~~ninety~~ 90 days notice of cancellation, the operator must deliver to the Department a replacement bond. If such bond is not delivered, all surface mine operations and use of slurry ponds and gob disposal areas by that operator must cease. The replacement bond shall be accompanied by a letter from the bonding company acknowledging the bond is in lieu of a formerly cancelled bond and identifying the dates of the permit period which the bond is to cover.
 - D) If the license to do business in Illinois of any surety upon a bond filed with the Department shall be suspended or revoked, the operator, within ~~thirty~~ 30 days after receiving notice thereof from the Department, shall substitute for any surety a good and sufficient corporate surety approved by the Director and licensed to do business in Illinois as a surety. Upon the failure of the operator to make said substitution of surety, the Department shall have the right to suspend the permit of the operator until substitution has been made.
- 4) Other Securities Requirements
- A) Letters of credit shall be subject to the following conditions:
 - i) The letter may only be issued by a bank organized or authorized to do business in the United States ("issuing bank"). If the issuing bank does not have an office for collection in Illinois, there shall be a confirming bank designated that is authorized to accept, negotiate and pay the letter upon presentment in Illinois.
 - ii) Letters of credit shall be irrevocable during their terms. A letter of credit used as security in areas requiring continuous bond coverage shall be forfeited and shall be collected by the Department if not replaced by other suitable bond or letter of credit at least ~~thirty~~ 30 days before its expiration date.
 - iii) The letter of credit shall be payable to the Department upon demand, in part or in full, upon receipt from the Department of a notice of forfeiture issued in accordance with Section 300.170 of this Part.
 - iv) The letter of credit shall provide on its face that the Department, its lawful assigns, or the attorneys

DEPARTMENT OF NATURAL RESOURCES

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for the Department or its assigns, may sue, waive notice and process, appear on behalf of, and confess judgment against the issuing bank (and any confirming bank) in the event that the letter of credit is dishonored. The letter of credit shall be deemed to be made in Sangamon County, Illinois, for the purpose of enforcement and any actions thereon shall be enforceable in the Courts of Illinois, and shall be construed under Illinois law.

B) Certificates of deposit shall be subject to the following conditions:

i) The Department shall require that certificates of deposit be made payable to or assigned to the Department both in writing and upon the records of the bank issuing the certificates. If assigned, the Department shall require the banks issuing these certificates to waive all rights of setoff or liens against those certificates.

ii) The Department shall not accept an individual certificate of deposit in an amount in excess of ~~one hundred-thousand-dollars--\$100,000~~ or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

C) Cash accounts shall be subject to the following conditions:

i) The Department may authorize the permittee to supplement the bond through the establishment of a cash account in one or more federally-insured or equivalently protected accounts made payable upon demand to, or deposited directly with, the Department. Any interest paid on a cash account shall be returned to the permittee.

iii) The Department shall not accept an individual cash account in an amount in excess of ~~one-hundred-thousand dollars--\$100,000~~ or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

e) Request for Bond Review

1) During the term of the permit, and until all bond has been released, the permittee, the county board of each county containing lands affected, or a municipality with legal jurisdiction over the permit area through an annexation or pre-annexation agreement with the permittee, may submit a written request to review the Department's required bond amount and calculations upon which the bond amount was based.

2) The Department shall notify the permittee, county board and municipality whenever a request for bond review has been

DEPARTMENT OF NATURAL RESOURCES

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received. It shall be the permittee's responsibility to accurately identify in the permit application any applicable municipality with legal jurisdiction, pursuant to Section 300.50(a)(16) of this Part.

3) Based upon review of the bond calculation, if the permittee, county board or municipality believes the bond amount to be inadequate or excessive, they may present written information to the Department in support of its position. Such information must be based upon site specific conditions and supported by sound technical data, including, but not necessarily limited to, engineering cost estimates for earthmoving, grading and revegetation. All information submitted will be made available to the permittee, county board and municipality.

4) The Department shall render a written decision on each request for bond review within 60 days after receipt of all information specified in subsection (e)(3) above, and shall provide a copy of its decision to the permittee, county board and municipality. The Department's decision concerning the bond review request must be based upon site specific conditions and supported by sound technical data, including, but not necessarily limited to, engineering cost estimates for earthmoving, grading and revegetation. If the Department makes the determination that the bond amount is inadequate or excessive, the bond shall be adjusted in accordance with Section 8 of the Act.

5) The Department will make any site specific information in its possession available to the permittee, county or municipality upon request, with the exception that confidential information submitted by the permittee pursuant to Section 5(e)(15) of the Act may not be released to the county or municipality.

6) The Department's written decision on a request for bond review shall be considered the final agency action, and the permittee, county or municipality may request judicial review of that decision in accordance with the Administrative Review Law [73-ILCS 5/Art. III].

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 300.50 Permit Application Requirements

a) General Requirements

Each geographically distinct mining site and refuse disposal area shall require a separate permit application, which shall be accompanied by a United States Geological Survey Topographical Map outlining the acreage to be affected and adequately showing the land surrounding the acreage to be affected. Each application for a permit, and each amendment to an application for a permit, shall be submitted to the Department pursuant to the Act and to this Part and

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

shall contain the following items (subject to waiver by the Director with respect to amendments to applications as provided for in the Act):

- 1) a statement of the ownership of the land and of the ownership of the minerals to be mined;
- 2) a list of the minerals to be mined; or from which the refuse was derived;
- 3) the character and composition of the vegetation and wildlife on the lands to be affected;
- 4) the current and past uses of the lands to be affected;
- 5) the current assessed valuation of the lands to be affected and the assessed valuation shown by the ~~two--t~~ 2) quadrennial assessments next preceding the currently effective assessment;
- 6) the nature, depth and proposed disposition of the overburden;
- 7) the estimated depth to which the mineral deposit will be mined;
- 8) the technique to be used in surface mining;
- 9) the location and names of all streams, creeks, bodies of water and underground water resources within the land to be affected;
- 10) drainage on and away from the lands previous to being affected during mining and after mining and reclamation is completed including directional flow of water, natural and artificial drainage and waterways, and streams or tributaries receiving the discharge;
- 11) the location of buildings and utility lines within lands to be affected;
- 12) disclosure of the forfeiture or notice of forfeiture of any reclamation bond or reclamation security filed by the applicant or any operator related to the applicant, with this state or any other state, agency of state government or unit of local government. For the purposes of this subsection (a)(12) **paragraph**, "operator related to the applicant" means:
 - A) any person, corporation or entity, directly or indirectly controlling, controlled by or under common control of the individual or corporate applicant, or
 - B) any officer or director of an entity or corporation performing similar functions with respect to another entity, corporation or person related to the individual or corporate applicant;
- 13) the results of core drillings of consolidated materials in the overburden when required by the Department, provided that the Department may not require core drillings at the applicant's expense in excess of one ~~tt~~ core drill for every ~~twenty-five--t~~ 25) acres of affected land;
- 14) a detailed soil map of medium intensity prepared by Soil Conservation Service, U.S. Department of Agriculture, which shows the kind and extent of soils to be affected by coal surface mining during the forthcoming permit period. This requirement may be waived by the Director upon the written request of the

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applicant filed with and at the time of application, which request verifies that:

- A) such a map is either not in existence or not readily available, and ~~that~~
- B) to have such a map prepared or made available would necessitate an undue delay.⁷

In the event that the requirement for this map is waived, the applicant shall submit a comparable map approved by the Director. Operators of aggregate mines are not required to submit this map; ~~and~~

- 15) the desired effective date of the permit; ~~and-~~
- 16) the name, address, contact person and ~~one~~ number of any municipality with legal jurisdiction over the proposed permit area through an annexation or pre-annexation agreement.

AGENCY NOTE: As provided for in the Act, information respecting the minerals to be mined, respecting the estimated depth to which the mineral deposit will be mined, and respecting the results of core drillings if required by the Department shall be held confidential by the Department upon the written request of the operator.

b) Reclamation Plan and Map

- 1) Each application for a permit, and each amendment to an application for a permit, submitted to the Department under the Act and this Part, shall contain a conservation and reclamation plan for each geographically distinct mining site or refuse disposal site to be affected during the permit period. Included with the plan shall be maps of the area to be affected (with the same scale as recommended in Section 300.160(d) of this Part) designating which parts of the lands shown are to be reclaimed for:
 - A) forest;
 - B) pasture;
 - C) crop;
 - D) horticultural;
 - E) homesite;
 - F) recreational;
 - G) industrial; or
 - H) other uses, including food, shelter and ground cover for wildlife.
- 2) The reclamation plan, together with the reclamation maps shall:
 - A) provide for timely compliance with all operator duties as set forth in Section 6 of the Act and this Part by feasible and available means; and
 - B) provide for storage of all overburden and refuse.

c) Copies Required

Each application for a permit, and each amendment to an application for a permit, shall be submitted to the Department in duplicate.

(Source: Amended at 26 Ill. Reg. _____, effective

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Section 300.70 Departmental Consideration of Reclamation Plans

a) Approval of Plans

The Department shall approve a conservation and reclamation plan if ~~and only if~~ the plan complies with the Act and this Part, and if the completion of the plan will in fact accomplish every duty required of the operator. The Department's approval of a plan shall be based on the advice of technically trained foresters, agronomists, economists, engineers, planners and other relevant experts having experience in reclaiming surface mined lands. The Department shall consider the view filed by the county board in writing with the Department. The Department shall consider the short and long term impact of the proposed mining on:

- 1) vegetation;
- 2) wildlife;
- 3) fish;
- 4) land use;
- 5) land values;
- 6) local tax base;
- 7) economy of the region and of the State;
- 8) employment opportunities;
- 9) air pollution;
- 10) water pollution;
- 11) soil contamination;
- 12) noise pollution;
- 13) drainage.

b) Alternative Land Uses

The Department ~~may~~ shall consider feasible alternative land uses for which reclamation might prepare the affected land and ~~may~~ shall analyze the relative costs and effects of those ~~such~~ alternatives.

c) Notice

The Department shall send notice of any hearing to be held pursuant to Section 5 of the Act to the applicant, the county board, all interested persons who have requested, in writing, notice with respect to that particular parcel of land to be affected by the application and plan, and to the principal newspapers, television and radio stations serving the area. The Department will publish notice of the hearing in a newspaper of general circulation within the county. ~~The~~ Such notice will be sent not less than ~~ten--f~~ 10~~7~~ nor more than ~~thirty-five--f~~ 35~~7~~ days prior to the date fixed for the hearing.

d) Hearing Officer

1) The Department will appoint a hearing officer to conduct the hearing. The hearing officer shall not reside or have an office within the county and shall be either a State employee or a licensed attorney. The hearing officer shall conduct a fair hearing and shall take all necessary action to avoid delay, to

maintain order, and to develop a clear and complete record.
2) He shall have all powers necessary to these ends, including but not limited to the power to:

- A) Rule upon motions and requests consistent with the law and this Part;
- B) Change the time and place of the hearing and adjourn the hearing from time to time or from place to place within the county of the affected lands and to give due notice of such action consistent with the notice requirement of subsection Section-300-70(c) of this Section Part;
- C) Administer oaths;
- D) Examine and cross-examine witnesses and direct witnesses to testify;
- E) Admit or exclude evidence on the issues;
- F) Hear oral argument on the facts or the law; and
- G) Require prior submission of expert testimony in writing, require prior submission of exhibits, and make such orders as appropriate to preserve the right of cross-examination with respect thereto.

e) Prehearing Conferences

1) The hearing officer, on his own motion, or on the motion of any applicant or interested party, the Department or the county board, or representatives of same, may direct all such entities or their representatives to appear at a specified time and place for a conference for:

- A) The simplification of the issues;
- B) Obtaining stipulations and admissions of fact;
- C) The identification and, if practicable, the scheduling of witnesses to be called;
- D) If appropriate, the advance submission at the prehearing conference by any applicant or interested person, the Department or county board of documentary evidence to be marked for identification. All evidence thus submitted shall be marked for identification. When portions only of document are to be relied upon, the offering party shall prepare the pertinent excerpts thereof, adequately identified, and shall supply copies of such excerpts together with the original document to the hearing officer for examination and study by all other parties;
- E) Such other matters as may aid in the fair, orderly and expeditious disposition of the proceeding.

2) The hearing officer may, following a prehearing conference, issue an order setting forth the agreements reached by the parties or representatives, the schedule of witnesses, and a statement of issues for the hearing. Such order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order. Notwithstanding any provision of this subsection, witnesses may present testimony and other material

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may be introduced and received as evidence at the hearing, so long as such testimony or other evidence is otherwise admissible under the Act and this Part.

f) Hearing Procedures

- 1) The applicant shall appear at any hearing held pursuant to a request of the county board. The Department through its representatives shall appear at any such hearing.
- 2) Any applicant, the Department or interested persons may be represented by an authorized officer, employee, or other representative. All such entities and the county board shall have the right to be represented by counsel.
- 3) The hearing officer may allow the county board, the applicant, and any interested persons to make an opening statement or closing argument. The county board, the applicant, the Department, and any interested persons shall have the right to cross-examine witnesses.
- 4) Where necessary in order to prevent undue prolongation of the hearing, the hearing officer may limit the number of times any witness may testify, may limit repetitions or cumulative testimony, and may establish reasonable limits on the amount of time each witness may testify. The hearing officer shall establish a time period during which members of the public shall be heard. Every effort will be made to allow all such persons who wish to make a statement to do so within the discretion of the hearing officer.
- 5) A verbatim transcript of the hearing shall be maintained by a reporter appointed by the Department, and shall constitute a part of the record. Copies of the transcript shall be furnished upon request at cost.
- 6) If an applicant, county board or interested person objects to the admission or rejection of any evidence or to any other ruling of the hearing officer during the hearing, he shall state briefly the grounds of such objection. The transcript shall not include argument or debate on an objection except as ordered by the hearing officer. The ruling of the hearing officer on any objection shall be a part of the record. No interlocutory appeal may be taken from any ruling of the hearing officer.
- 7) The record shall remain open for rebuttal statements for ten-10 days following the close of the hearing, or for such other reasonable time as the hearing officer may direct.

g) Admission of Evidence

- 1) The hearing officer may, insofar as practicable, exclude evidence which is immaterial, irrelevant, or unduly repetitious.
- 2) If relevant and material evidence is contained in a report or document containing immaterial or irrelevant matter, such immaterial or irrelevant matter shall be excluded and shall be segregated insofar as practicable, subject to the direction of the hearing officer.

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- 3) Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof shall consist of a brief statement describing the evidence to be offered. If the evidence consists of a brief statement or affidavit, or an exhibit, it shall be inserted into the transcript in toto. In such event, it shall be considered a part of the transcript if the Department decides that the hearing officer's ruling in excluding the evidence was erroneous.
- 4) Any relevant and material documentary evidence shall be received in evidence, including affidavits, published scientific articles, and official documents, regardless of whether or not the affiant, author, or maker is available for cross-examination. Where any such evidence is admitted without cross-examination, or where cross-examination is limited for any purpose by the hearing officer, the Department shall consider the extent to which an opportunity for cross-examination was provided in determining the weight to be accorded evidence appearing in the record.
- 5) If the Department relies on any report or other document in its consideration of the application, not admitted into evidence at a hearing, nor submitted to the Department pursuant to the Act and this Part in a situation where no hearing is held, the Department will include a copy of such document in the record.

h) Decision of the Department

- 1) The Department shall approve a reclamation plan and issue the permit applied for, if it determines that such plan best complies with the Act and this Part in all respects. The Department's decision with respect to such plan shall be based upon the record. Nothing in the Act or in this Part shall be construed as preventing the Department or its representatives or any hearing officer appointed pursuant to the Act and this Part from taking administrative notice of any fact, law, rules or regulations commonly known, but not formally introduced or otherwise made a part of the record with respect to such plan.
- 2) Whenever the Department does not approve the applicant's plan, or whenever the plan approved by the Department does not conform to the views of the county board expressed in accordance with Section 5(f) of the Act, the Department will issue a statement of its reasons for its determination and will make such statement public. A copy of this decision and statement shall be mailed by the Department to the applicant and to the county clerk of each county containing land to be affected by registered mail return receipt requested. The county clerk shall forward such decision and statement to the presiding officer of such county board by registered mail return receipt requested. The Department's action with respect to any plan and permit application shall be deemed to occur on the day the Department mails such decision and statement to the applicant and county clerk.

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- i) Modification of a Reclamation Plan After Denial of an Application For Permit Under Subsection (h)
If an application for permit is denied pursuant to subsection (h), the applicant may submit a modified reclamation plan as part of its original application within ~~ten-~~ 10+ days after the Department's issuance of its decision and statement of its reasons for such decision. Such modified plan shall be submitted in writing to the county board of each county containing land to be affected, as provided for in the Act and in Section 300.60(a) of this Part. The county board shall have ~~ten-~~ 10+ days from the date of the filing of such modified plan with the Department to direct written testimony and documentary evidence regarding such modified plan to the Department. If the Department determines that the modified plan best complies with the Act, this Part and the terms of the previous decision and statement on the original plan, it shall approve the reclamation plan and issue the permit applied for to the applicant. The Department's decision with respect to such modified plan shall be based on the original record of the hearing on the plan and on the written submissions allowed for under this subsection.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 300.90 Amendments to Permits

a) Surface Mined Affected Lands

1) Amendment to Increase Affected Acreage

An operator may make application to amend his surface mining permit to include additional acreage at any time during the permit period. The fee for such an amendment to a permit shall be at a rate per acre consistent with the prescribed rate for the new total estimated acreage to be affected and such fee shall be submitted upon request by the Department. The additional bond or security which shall be required, if such an amended permit is granted shall be at a rate per acre consistent with the Act and Section 300.40(b) of this Part. The Director shall notify the applicant of the amount of the additional bond or security to be filed and the additional fees to be submitted by the applicant before the amended permit will be issued.

2) Amendment to Transfer Acreage Under Permit Within a Geographically Distinct Mining Site

An operator may make application to amend his surface mining permit by requesting to transfer acreage from within an area under permit to another area outside the permit area but within the same geographically distinct mining site at any time during the permit period. Upon approval of the Department, such amendment shall be allowed without additional fees except as may be provided elsewhere in this subsection.

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- 3) Requirements for Amendments to Permits Under Subsections (a)(1) and (a)(2) Above
Any application for an amendment to a surface mining permit allowed under subsections ~~subparagraphs~~ (a)(1) and (a)(2) of this Section ~~subsection~~ shall be governed by those provisions of the Act and this Part that apply to applications for a surface mining permit. Such provisions and rules shall include, but are not limited to, provisions and rules concerning notice to county boards, dates of application, responsibilities of county clerks, times for hearings, county board proposals, and Departmental consideration of reclamation proposals and recommendations generally.
- 4) Request to Reduce Affected Acreage
An operator may make application to withdraw acreage covered by permit, except affected land, at any time during the permit period. Upon approval by the Department, the bond shall be reduced proportionally but there shall be no refund of fees.
- 5) Request to Extend the Time of Permit

An operator ~~may make application to extend a surface mining permit for another twelve (12) month period on acreage under permit that has not been affected, if not more than twenty-five percent (25%) of the amount of acreage covered by the original permit is involved; a new permit shall be required at the regular prescribed fees as stated in Section 300.30(b) of this Part for all acreage in excess of twenty-five percent (25%) of the amount of acreage covered by the original permit; only one (1) extension may be granted for each permit; when approved by the Department, such extension shall be made without any additional fee.~~

b) Amendments to Permits for Refuse Disposal Lands

An operator may make application to increase acreage or to transfer acreage under permit within a geographically distinct disposal site at any time during the permit period for the Slurry Pond Disposal Permits or for Gob Refuse Disposal Permits. An ~~such an~~ application for ~~a~~ such amendment shall be made in the fashion referred to in subsection ~~subparagraph~~ (a)(3) above. The fee for such an amendment to a permit to increase acreage shall be at a rate per acre consistent with the prescribed rate for the new total estimated acreage to be affected, and the such fee shall be submitted upon request of the Department. The additional bond or security which shall be required, if such an amended permit is granted, shall be at a rate per acre consistent with the Act and Section 300.40(b) of this Part. The Director shall notify the applicant for the amount of the additional bond or security to be filed and the additional fees to be submitted by the applicant before the amended permit will be issued.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

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Section 300.95 Transfer of Permits

- a) An operator may transfer any existing permit to a second operator, after first notifying the Department of the intent to transfer the permit.
- b) The Department shall transfer any existing permit to a second party upon written notification from both parties and the posting of an adequate performance bond by the new permittee, in accordance with Section 300.40.

(Source: Added at 26 Ill. Reg. _____, effective _____)

Section 300.110 General Reclamation Requirements

- a) Time Requirement For Completion of Reclamation

1) ~~Generally all grading requirements provided for in the Act and this Part shall be carried to completion by the operator prior to the expiration of eleven months after June 30th of the fiscal year in which the mining occurred. All other reclamation provided for in the Act and this Part except gob and sturry areas in active use, shall be carried to completion by the operator prior to the expiration of three (3) years after June 30th of the fiscal year in which the mining occurred. Gob and sturry disposal areas shall be reclaimed as provided in Section 6 of the Act and this Part within one (1) year after cessation of active use, as determined by the Department.~~

- 2) Exceptions

When extension of the reclamation period is necessary to allow continued mining operation otherwise permitted by the Act and this Part, or to accomplish acceptable reclamation, such request for extension shall be justified in writing to the Department. It shall be within the discretion of the Department to grant such extension consistent with the Act and this Part. If lands are not satisfactorily reclaimed and if the Department shall deny request for an extension of the reclamation period, the Department shall declare forfeiture of the surety bond or security on such land not satisfactorily reclaimed or, in the alternative, the Director shall provide that the operator cover such areas within one (1) year with material capable of being vegetated in accordance with vegetative standards adopted by the Department.

- b) Grading Requirements

- 1) ~~Fifteen Percent (15%) Requirement~~

All land affected by surface mining, except as otherwise provided for in the Act and this Part, shall be graded to a rolling topography traversable by machines necessary for maintenance in accordance with planned use. Such slopes shall have no more than

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- 2) ~~a fifteen percent (15%) grade.~~
~~Exceptions to Fifteen Percent Requirement Thirty Percent (30%) Exception~~
~~Slopes may exceed a fifteen percent (15%) grade in the case of those lands to be reclaimed in accordance with the filed plan for forest plantation enhancement of wildlife or establishment of recreational sites and side slopes of haulage road inclines to be used for the formation of lakes but shall not exceed a thirty percent (30%) grade in such cases. The slope of the final cut spoil, the outside slope of the box cut spoil and the outside slopes of all overburden deposition areas shall likewise not exceed a thirty percent (30%) grade.~~

A) The grade shall not exceed 30% on any of the following:

- i) lands to be reclaimed to forest plantation or recreational or wildlife land uses;
 - ii) the outside slopes of all overburden deposition areas; and
 - iii) the outside slopes of all box cut spoil areas.
- B) The final cut spoil and the side slopes of haulage road inclines can remain at a slope equal to the angle of repose of the material, provided the material can support vegetative cover.
- C) In no case shall the Department require grading to a lesser slope than the original grade of the overburden existing prior to mining.

- 3) ~~Original Grade Exception~~
~~The slope of affected lands need not be reduced to less than the slope of the original grade of the overburden of that area prior to mining.~~

- 3)4) Terrace Requirement

Where acceptable soil conservation practices make it advisable to do so, the Department shall require operators, consistent with Section 300.130 of this Part, to terrace reclaimed lands for the prevention of excessive erosion.

- 4)5) Highwalls, except those created by the aggregate mining industry, shall be reshaped to a maximum slope of two-to-one (2:1) or fifty percent (50%) to the anticipated water level or dry pit bottom unless otherwise excepted by the Director. ~~The Director shall submit proposed exceptions to the Advisory Council for its comments before granting any exceptions under the Act or this Part.~~

- c) Land Not Requiring Reclamation

In cases where pools or lakes capable of supporting aquatic life may be formed by rainfall or drainage runoff from adjoining land, the depressed haulage roads or final cuts or any other area to be occupied by pools or lakes, if approved by the Department, shall not require any further reclamation. Where the Director determines that a road, dry pit bottom or ditch is consistent with and necessary to the

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conservation and reclamation plan for an area, no further reclamation shall be required.

d) Land to be Reclaimed For Row-Crop Agriculture

1) When the Director determines that the land to be affected is capable of being reclaimed for row-crop agricultural purposes and suitable for row-crop agricultural purposes based on United States Soil Conservation Service soil survey classifications of the affected land prior to mining, and when the Director determines that the optimum future use of the land affected is for row-crop agricultural purposes, the affected land shall be graded to the approximate original grade of the land and all or part of the darkened surface soil, as defined in the Act, shall be segregated during the stripping process and replaced as a final cover as a last step in the required grading. When available in such depth, at least ~~eighteen~~- $\frac{1}{2}$ inches of the darkened surface soil shall be segregated and replaced. When less than ~~eighteen~~- $\frac{1}{2}$ inches of darkened surface soil exists all such lesser amounts shall be segregated and replaced. In no case shall less than the top ~~eight~~- $\frac{1}{2}$ inches of surface soil, darkened or not, be segregated and replaced. This segregation and replacement requirement may be altered by the Department only if it is determined upon the advice of competent soil scientists that other material available in the case overburden would be suitable in meeting the reclamation requirements. Below the darkened surface soil the replaced material shall be suitable as an agricultural root medium. The Department shall determine by rules what constitutes a suitable agricultural root medium by composition and depth. On all lands to be reclaimed the operator shall not be required to create a soil condition better than that which existed prior to surface mining.

2) Slope classifications of lands before mining are:

- A) ~~Zero-to-Two-Percent~~- $\frac{1}{2}$ 0%-2%;
- B) ~~Two-to-Five-Percent~~- $\frac{1}{2}$ 2%-5%;
- C) ~~Five-to-Ten-Percent~~- $\frac{1}{2}$ 5%-10%.

3) Approximate original grade means the grading of affected lands ~~that which~~ were originally of the subsections subparagraphs (d)(2)(A) and (2)(B) slope classifications to a maximum slope not to exceed ~~five-percent~~- $\frac{1}{2}$ 5% slope with a planned erosion control system approved by the Director for ~~three-to-five-percent~~- $\frac{1}{2}$ 3%-5% slopes.

4) Approximate original grade means the grading of affected lands ~~that which~~ were originally of the subsection subparagraph (d)(2)(C) ~~five-to-ten-percent~~- $\frac{1}{2}$ 5%-10% slope to a maximum slope not to exceed ~~ten-percent~~- $\frac{1}{2}$ 10% and shall have a planned erosion control system approved by the Director.

5) Planned terrace systems, when utilized as part of a planned erosion control system, shall be constructed according to U.S. Department of Agriculture Natural Resources Soil Conservation

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Service specifications.

6) Slopes on all affected lands shall be measured from the drainage divide to the base of the slope or to the intermittent water course as the lowest point. Abrupt slope changes between these points are not acceptable except for unusual conditions such as ditches, terraces, and roads.

7) The length of slope and contour of the restored surface shall be conducive to those farming operations normally associated with row-crop production. Farming operations as used here shall include such measures or practices necessary to provide adequate drainage and erosion control for sustained row-crop production.

8) The materials under the darkened surface soil suitable as a root medium shall contain no more than ~~twenty-percent~~- $\frac{1}{2}$ 20% coarse material greater than ~~two-millimeters~~- $\frac{1}{2}$ 2mm in size by volume. No more than half of the coarse material may be between ~~three~~- $\frac{1}{2}$ 3 inches and ~~ten~~- $\frac{1}{2}$ 10 inches in the greatest dimension. No fragments shall be greater in size than ~~ten~~- $\frac{1}{2}$ 10 inches in the greatest dimension. In no case may clay material of less than ~~two~~- $\frac{1}{2}$ 2 microns be greater than ~~forty-percent~~- $\frac{1}{2}$ 40% by weight.

9) These texture requirements do not apply if the soil conditions of the affected land prior to mining did not meet the standards included herein (i.e., if more than ~~twenty-percent~~- $\frac{1}{2}$ 20% coarse material by volume existed in the root medium below the darkened surface soil prior to mining, the same percentage of coarse material in the root medium will be allowed after mining; if more than ~~one-half~~- $\frac{1}{2}$ 1/2 of the coarse material consisted of rocks in the ~~three-to-ten~~- $\frac{1}{2}$ 3-10 inch size category prior to mining, that same percentage will be permitted after mining and if more than ~~forty-percent~~- $\frac{1}{2}$ 40% by weight of clay materials less than ~~two~~- $\frac{1}{2}$ 2 microns in size existed in the root medium below the darkened surface soil prior to mining, a like percentage by weight will be allowed after mining in the material under the darkened surface soil).

10) In addition to meeting texture requirements, the materials under the darkened surface soil must be chemically suitable as an agricultural root medium. Materials suitable as an agricultural root medium shall be of a vertical thickness adequate, including the darkened surface soil, to ensure a total depth of ~~four~~- $\frac{1}{2}$ 4 feet. Pyritic material capable of producing toxic acidic conditions shall not be incorporated within the surface ~~four~~- $\frac{1}{2}$ 4 foot layer of finally graded lands.

11) The Director may alter the slope and texture requirements under this subsection only upon a clear and convincing showing that to vary such requirements would better effectuate the purposes of the Act than would enforcing the standards therein.

12) Location of texture compliance samples will be determined by random methods similar to those described in Section 300.120(b)(2)(B)(i) of this Part and texture analysis shall be

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determined by methods as subscribed by the Department.

- 13) The final cut and submerged roadways may remain if the Department determines that such final cut or roadway would form a water impoundment capable of supporting desirable uses such as water for livestock or wildlife; and if to be used for fish life, shall have minimum depths in accordance with standards for fish stocking as recommended by the Department. All impoundments and structures must be included in the reclamation plan for approval or disapproval by the Department. The boxcut spoil shall be graded in accordance with Section 6 of the Act, and with this Part.

e) Water Impoundments

All runoff water shall be impounded, drained, or treated so as to reduce soil erosion, damage to unmined lands and the pollution of streams and other waters. The operator shall construct, in accordance with Section 300.150 of this Part, earth dams, where lakes may be formed, in accordance with sound engineering practices if necessary to impound waters, provided the formation of the lakes or ponds will not interfere with underground or other mining operations; other subsequent uses of the area approved by the Department; or damage adjoining property. Such water impoundments shall be approved by the Department based on the expected ability of the lakes or ponds to support desirable aquatic life and shall have minimum depths in accordance with standards for fish stocking in the various areas of the State recommended by the Department.

f) Covering Toxic Materials

Acid forming materials present in the exposed face of the mined mineral seam or seams shall be covered with not less than ~~four~~ 4 feet of water or other materials, which shall be placed with slopes having no more than ~~thirty-percent~~ 30% grade, capable of supporting plant and animal life. Final cuts or other depressed affected areas, no longer in use in mining operations, which accumulate toxic waters will not meet reclamation requirements.

g) Vegetative Cover Essential

Unless the approved reclamation plan is inconsistent with vegetative cover, the soil shall be prepared and planted with trees, shrubs, grasses and legumes to provide suitable vegetative cover, in accordance with standards adopted by the Department and as set forth in Section 300.120 of this Part.

h) Minimum Distance of Excavation to Public Right-of-Ways and Adjacent Property Owners

Surface mining operators that remove and do not replace the lateral support within a ~~three~~ 3 month period shall not, unless mutually agreed upon, by the operator and the adjacent property owner, approach property lines, established right-of-way lines of any public roads, streets or highways closer than a distance equal to ~~ten~~ 10 feet plus ~~one-and-one-half~~ 1 1/2 times the depth of the excavation except where consolidated materials or materials of sufficient

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hardness or ability to resist weathering and to inhibit erosion or sloughing exists in the highwall, the distance from the property line or any established right-of-way line shall not, unless mutually agreed, be closer than a distance equal to ~~ten~~ 10 feet plus ~~one-and-one-half~~ 1 1/2 times the depth from the natural ground surface to the top of the consolidated material or materials. When the operator desires to remove the lateral support and replace it within a ~~three~~ 3 month period, the operator shall submit to the Department a written request for ~~that said~~ purpose, outlining how the lateral support shall be replaced within ~~three~~ 3 months. ~~The said~~ request shall be approved or denied by the Department in a timely manner.

i) Planting Stock Unavailable

If the operator is unable to acquire sufficient planting stock of desired tree species from ~~State~~ state nurseries or acquire ~~those~~ such tree species elsewhere at comparable prices, the Department shall grant the operator an extension of time until planting stock is available to plant such land as originally planned, or shall permit the operator to select an alternate method of reclamation in keeping with the provisions of the Act and with this Part.

j) Removal of Abandoned Haulage Roads and Mine Drainage Ditches

All abandoned haulage roads and all mine drainage ditches shall be removed and graded, except where the Director determines that a road or ditch is consistent with and necessary to the conservation and reclamation plan.

k) Sanitary Land Fill Requirements

The reclamation requirements under Section 6 of the Act and this Part do not apply to affected land use for a ~~sanitary~~ sanitary land fill if the ~~such~~ sanitary land fill is approved by the Environmental Protection Agency. The Environmental Protection Agency may regulate the amount of land to be used for that purpose and may establish a time schedule for the orderly and timely completion of the ~~such~~ sanitary land fill. Any affected land designated for a ~~sanitary~~ sanitary land fill and not used for that ~~such~~ purpose within five 5 years is subject to the reclamation provisions of Section 6 of the Act and this Part. ~~Bands-used-for sanitary-land-fill-which-are-under-bond-to-the-Department--shall continue-under-bond-as-long-as-the-land-is-used-for-sanitary-land-fill and-until-the-land-is-approved-and-released-by-the-Department.~~

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 300.160 Affected Acreage Map

a) When to File

On or before ~~April~~ September 1 of each year, every permit holder shall submit to the Department and to the county clerk, MLCR Form 3, "Detail Map of Affected Land." This map shall be of the land from which the overburden has been removed, together with the unmined land upon which

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the overburden is deposited. An extension to this filing date may be granted when, in the opinion of the Department, the extension is for good cause and not due to lack of diligence on the part of the operator. ~~7-and-haulage-roads-and-drainage-ditches-~~

b) Execution

The forms shall be duly executed and duplicate maps shall be attached showing the land affected during the fiscal year just ended. The Department may require the map to be executed by an engineer registered in the State of Illinois.

c) Form

The map shall be planned as a continuous map, as far as possible, so that the land affected each year may be added and indicated on the map by the dates it was affected. All maps are to be blue or black line prints or scaled aerial photographs.

d) Scale

The scale of the map shall be reasonable to the area of land affected so as to show necessary detail and so that the area affected may be included within a map, width not to exceed ~~forty-two~~ 42 inches.

Suggested Scales:

†Up to 10 acres - 1" = 100'
 †Up to 40 acres - 1" = 200'
 †40 acres & above - 1" = 400'

e) Detail

All maps shall show section, township, range and county lines coming within the scope of the map access to the area from the nearest public road and all weather roads within the mined area; a title containing name of operator, address, scale of map, by whom map was drawn, name of surveyor or engineer.

f) Amendment to Permit Required

If the area of affected land is in excess of the estimated acreage in the original permit and any amendments thereto, an application for an amendment to the permit necessary to include such additional acreage shall be made consistent with the Act and this Part, including, but not limited to, Section 300.90 of this Part.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 300.180 Bond Release Procedure

a) Full Release of Bond

As soon as all reclamation work prescribed in the conservation and reclamation plan approved by the Department is completed, the operator may notify the Department by completing and forwarding MLCR Form 6, "Notice of Completed Reclamation," and a map of the acreage to be released if different from the original affected acreage map, to the Department. Upon receipt of MLCR Form 6, "Notice of Completed

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Reclamation," the Department shall proceed as soon as practical to make its determination as to approval of the reclamation work and shall either forward the "Notice of Release," MLCR Form 7, to the operator, the bonding agency, ~~and the county clerk at the county seat~~ of each county containing lands affected, and each municipality listed in the permit application pursuant to Section 300.50(a)(16) or notify the operator in writing of all reasons for disapproval.

b) Partial Release of Bond

An operator may have the amount of the bond or security reduced to \$100 per acre when the Department determines that grading and construction of soil conservation structures and covering with materials capable of supporting vegetation in accordance with the conservation and reclamation plan has been satisfactorily completed on a parcel of affected land. As soon as all the grading work prescribed in the conservation and reclamation plan approved by the Department is completed, the operator may notify the Department by completing and forwarding MLCR Form 6, "Notice of Completed Reclamation." The Department shall proceed as soon as practical to make its determination as to approval of the grading work and either forward the "Notice of Partial Release," MLCR Form 7, to the operator, ~~and the~~ bonding agency, the county clerk of each county containing lands affected, and each municipality listed in the permit application pursuant to Section 300.50(a)(16) or notify the operator in writing of all reasons for disapproval. After partial release of the bond, the \$100 bond per acre or security shall then remain in effect until the reclamation process is completed.

c) Review of Released Bond

A release of bond under either subsection (a) or (b) may be reviewed under the procedures outlined in Section 300.40(e) of this Part.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Illinois Veterans' Homes Code
- 2) Code Citation: 77 Ill. Adm. Code 340
- 3) Section Numbers: Proposed Action:
 340.1000 Amendment
 340.1350 Amendment
 340.1710 Amendment
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) A Complete Description of the Subjects and Issues Involved: Part 340 establishes licensing requirements for Illinois veterans' homes. Section 340.1000 (Definitions) is being amended to update definitions for "Audiologist" and "Facility" and to replace the term "Medical Record Practitioner" with "Health information management consultant".
 Section 340.1350 (Personnel Policies) is being amended to add two requirements for personnel policies. Prior to employing any individual in a position that requires a State license, the facility will be required to contact the Illinois Department of Professional Regulation to verify that the individual's license is authorized and in good standing. The facility will also be required to check the status of all applicants with the Nurse Aide Registry prior to hiring.
 Section 340.1710 (Social Services) is being amended to delete outdated language.
 The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.
 The Department anticipates adoption of this rulemaking approximately six to nine months after publication of this notice in the *Illinois Register*.
- 6) Will this Rulemaking replace an Emergency Rulemaking currently in effect?
 No
- 7) Does this Rulemaking contain an automatic repeal date? No
- 8) Does this Rulemaking contain any incorporations by reference? No
- 9) Are there any other Proposed Amendments Pending on this Part? Yes
Section Numbers Proposed Action Ill. Reg. Citation
 340.1380 New Section 25 Ill. Reg. 5851
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create

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or expand a State Mandate.

- 11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Peggy Snyder
 Division of Legal Services
 Illinois Department of Public Health
 535 West Jefferson St., 5th Floor
 Springfield, Illinois 62761
 217/782-2043
 e-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Peggy Snyder at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate its status as such, in writing, in its comments.

- 12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: July 2001

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS
SUBPART C: RESIDENT RIGHTS

Section	Implementation of Resident Rights and Facility Responsibilities
340.1400	General
340.1410	Contract Between Resident and Facility
340.1420	Residents' Advisory Council
340.1430	Abuse and Neglect
340.1440	Communication and Visitation
340.1450	Resident's Funds
340.1460	Transfer or Discharge
340.1470	Complaint Procedures
340.1480	Private Right of Action
340.1490	

SUBPART D: HEALTH SERVICES

Section	Medical Care Policies
340.1500	Medical, Nursing and Restorative Services
340.1505	Communicable Disease Policies
340.1510	Tuberculin Skin Test Procedures
340.1520	Physician Services
340.1530	Dental Programs
340.1535	Life-Sustaining Treatments
340.1540	Obstetrical and Gynecological Care
340.1550	Nursing Personnel
340.1560	Personal Care
340.1570	Restraints
340.1580	Nonemergency Use of Physical Restraints
340.1590	Emergency Use of Physical Restraints
340.1600	Unnecessary, Psychotropic, and Antipsychotic Drugs
340.1610	Medication Administration
340.1620	Self-Administration of Medication
340.1630	

SUBPART E: MEDICATION ADMINISTRATION SERVICES

Section	Medication Policies and Procedures
340.1650	Conformance with Physician's Orders
340.1655	Administration of Medication
340.1660	Control of Medication
340.1665	Labeling and Storage of Medication
340.1670	

SUBPART F: RESIDENT LIVING SERVICES

Section	Recreational and Activity Programs
340.1700	Social Services
340.1710	

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 340
ILLINOIS VETERANS' HOMES CODE
SUBPART A: GENERAL PROVISIONS

Section	Definitions
340.1000	Incorporated and Referenced Materials
340.1010	General Requirements
340.1110	Federal Veterans' Regulations
340.1115	Application for License
340.1120	Criteria for Adverse Licensure Actions
340.1130	Denial of Initial License
340.1140	Revocation or Denial of Renewal of License
340.1150	Inspections, Surveys, Evaluations, and Consultations
340.1160	Presentation of Findings by the Department
340.1170	Ownership Disclosure
340.1190	Monitor and Receivership
340.1200	Determination of a Violation
340.1210	Determination of the Level of a Violation
340.1220	Plans of Correction and Reports of Correction
340.1230	Calculation of Penalties
340.1240	Conditions for Assessment of Penalties
340.1245	Reduction or Waiver of Penalties
340.1250	Supported Congregate Living Arrangement Demonstration
340.1255	Waivers
340.1260	

SUBPART B: POLICIES AND FACILITY RECORDS

Section	Facility Policies
340.1300	Admission and Discharge Policies
340.1310	Disaster Preparedness
340.1320	Serious Incidents and Accidents
340.1330	Infection Control
340.1335	Facility Record Requirements
340.1340	Personnel Policies
340.1350	Initial Health Evaluation for Employees
340.1360	Administrator
340.1370	Personnel Requirements
340.1375	Registry of Certified Nurse Aides
340.1376	Health Care Worker Background Check
340.1377	Resident Attendants
340.1378	

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340.1720 Work Programs
340.1730 Volunteer Program

SUBPART G: RESIDENT RECORDS

Section
340.1800 Resident Record Requirements
340.1810 Content of Medical Record
340.1820 Records Pertaining to Resident's Property
340.1830 Retention, Transfer, and Inspection of Records
340.1840 Confidentiality of Resident's Records

SUBPART H: FOOD SERVICE

Section
340.1900 Food Service Staff
340.1910 Diet Orders
340.1920 Meal Planning
340.1930 Therapeutic Diets (Repealed)
340.1940 Menus and Food Records
340.1950 Food Preparation and Service
340.1960 Kitchen Equipment, Utensils and Supplies

SUBPART I: PHYSICAL PLANT SERVICES,
FURNISHINGS, EQUIPMENT AND SUPPLIES

Section
340.2000 Maintenance
340.2010 Water Supply, Sewage Disposal and Plumbing
340.2020 Housekeeping
340.2030 Laundry Services
340.2040 Furnishings
340.2050 Equipment and Supplies

TABLE A Heat Index Table/Apparent Temperature
TABLE B Guidelines for the Use of Various Drugs

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rule adopted at 18 Ill. Reg. 10391, effective June 21, 1994, for a maximum of 150 days; emergency rule expired November 18, 1994; adopted at 19 Ill. Reg. 5679, effective April 3, 1995; emergency amendments at 20 Ill. Reg. 496, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10045, effective July 15, 1996; amended at 20 Ill. Reg. 12013, effective September 10, 1996; amended at 22 Ill. Reg. 3959, effective February 13, 1998; amended at 22 Ill. Reg. 7162, effective April 15, 1998; amended at 23 Ill. Reg. 1038, effective January 15, 1999;

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amended at 23 Ill. Reg. 7931, effective July 15, 1999; amended at 24 Ill. Reg. 17225, effective November 1, 2000; amended at 25 Ill. Reg. 4869, effective April 1, 2001; amended at 26 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 340.1000 Definitions

The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

Abuse - any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility. (Section 1-103 of the Act)

Abuse means:

Physical abuse refers to the infliction of injury on a resident that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to residents or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual assault.

Access - The Right To:

Enter Any Facility;

Communicate privately and without restriction with any resident who consents to the communication;

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Seek consent to communicate privately and without restriction with any resident;

Inspect the clinical and other records of a resident with the express written consent of the resident;

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)

Act - as used in this Part, the Nursing Home Care Act [210 ILCS 45].

Activity Program - a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior - the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Adaptive Equipment - a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 340.1580 as a physical restraint.

Adequate - enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning - a notice to a facility issued by the Department under Section 340.1220 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a Type A or Type B violation.

Administrator - the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate - a person who represents the rights and interests of an individual as though they were the person's own, in order to realize

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the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Affiliate - means:

With respect to a partnership, each partner thereof.

With respect to a corporation, each officer, director and stockholder thereof.

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)

Aide - any person providing direct personal care, training or habilitation services to residents.

Applicant - any person making application for a license. (Section 1-107 of the Act)

Appropriate - term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment - the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

~~Audiologist - a person who is licensed as an audiologist under the Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]. certified or is eligible for a certificate of clinical competence in audiology granted by the American Speech and Hearing Association under its requirements in effect on the publication of this provision or meets the educational requirements for certification, and is in the process of accumulating the supervised experience required for certification.~~

Autoclave - an apparatus for sterilizing by superheated steam under pressure.

Certification for Title XVIII and XIX - the issuance of a document by the Department to the Department of Health and Human Services or the Department of Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State

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health program.

Charge Nurse - a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical Restraint - any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act)

Continuing Care Contract - a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract - a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience - the use of any restraint by the facility to control resident behavior or maintain a resident, that is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 340.1580 of this Part.

Corporal Punishment - painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident - failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

Dentist - any person licensed to practice dentistry, including persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].

Department - as used in this Part means the Illinois Department of Public Health.

Developmental Disability - means a severe, chronic disability of a person which:

is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

is manifested before the person attains age 22;

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is likely to continue indefinitely;

results in substantial functional limitations in 3 or more of the following areas of major life activity:

self-care,

receptive and expressive language,

learning,

mobility,

self-direction,

capacity for independent living, and

economic self-sufficiency; and

reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801.1 of the Act)

Dietetic Service Supervisor - a person who:

is a dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in the second, third or fourth paragraph ~~paragraphs-(2)-(3)-(4)-(5)~~ of this definition.

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Dietitian - a person who is a licensed dietitian as provided in the Dietetic and Nutrition Services Practice Act [225 ILCS 30].

Direct Supervision - work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director - the Director of Public Health or his designee. (Section 1-110 of the Act)

Director of Nursing Service - the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge - the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline - any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part - an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency - a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Existing Long-Term Care Facility - any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility or long-term care facility - A private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code [55 ILCS 5], or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or

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management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 USCA 1395 et seq. and 1936 et seq.). It also includes homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs. A "facility" may consist of more than one building as long as the buildings are on the same tract or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois other than homes, institutions or other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care and treatment of human illness through the maintenance and operation as organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];

Any "Community Living Facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Human Services [210 ILCS 135]; or

Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65]; or

Any supportive living facility in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5/5-5.01a]; or

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of-the-Act)

Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act [210 ILCS 9]; or

An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act [210 ILCS 3]. (Section 1-113 of the Act)

Financial Resources - having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full-time - on duty a minimum of 36 hours, four days per week.

Goal - an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body - the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian - a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [755 ILCS 5]. (Section 1-114 of the Act)

Health information management consultant - a person who is certified as a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT) by the American Health Information Management Association; or is a graduate of a school of health information management that is accredited jointly by the American Medical Association and the American Health Information Management Association.

Hospitalization - the care and treatment of a person in a hospital as an in-patient.

Illinois Veterans' Home - a facility operated by or under the authority of the Illinois Department of Veterans' Affairs. (Section 1-113(1) of the Act) owned-but-not-operated-by-the-Illinois-Department of-Veterans'-Affairs-

Interdisciplinary Team - a group of persons that represents those professions, disciplines, or service areas that are relevant to

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identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. The Interdisciplinary Team includes at least the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and care givers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator - a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse - a person with a valid Illinois license to practice as a practical nurse.

Licensee - the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract - a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance - food, shelter, and laundry services. (Section 1-116 of the Act)

~~Medical-Record-Practitioner--a-person-who-is-eligible-for certification-as-a-registered-record-administrator--or-an accredited-record-technician--(ART)--by-the-American-Medical-Record Association-under-its-requirements; or-is-a-graduate-of-a-school-of medical-record-science--that-is-accredited-jointly-by-the-American Medical-Association-and-the-American-Medical-Record-Association.~~

Misappropriation of Property - using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Monitor - a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

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Neglect - a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. This shall include any allegation where:

the alleged failure causing injury or deterioration is ongoing or repetitious; or

a resident required medical treatment as a result of the alleged failure; or

the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New Long-Term Care Facility - any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Nurse - a registered nurse or a licensed practical nurse as defined in the Illinois Nursing and Advanced Practice Nursing Act of 1987 [225 ILCS 65]. (Section 1-118 of the Act)

Nursing Care - a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Objective - an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) - a person who is registered as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75].

Occupational Therapy Assistant - a person who is registered as a certified occupational therapy assistant under the Illinois

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Occupational Therapy Practice Act.

Operator - the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury - occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight - general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

Owner - the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person - any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

Personal Care - assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person, whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered - a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].

Physical Restraint - any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

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Physical Therapist Assistant - a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist - a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

Physician - any person licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].

Probationary License - an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

Psychiatrist - a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist - a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Professional - a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified by the State of Illinois, if required.

Reasonable visiting hours - any time between the hours of 10 a.m. and 8p.m. daily. (Section 1-121 of the Act)

Registered Nurse - a person with a valid license to practice as a registered professional nurse under the ~~Illinois~~ Illinois Nursing and Advanced Practice Nursing Act ~~of 1987~~.

Repeat violation - for purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

Resident - person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

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Resident Services Director - the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

Resident's Representative - a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

Restorative Care - a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Sanitization - the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory - same as adequate.

Seclusion - the retention of a resident alone in a room with a door which the resident cannot open.

Self Preservation - the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

Social Worker - a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal - the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization - the act or process of destroying completely all forms of microbial life, including viruses.

Stockholder of a corporation - any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation. (Section 1-125 of the Act)

Student Intern - means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:

an academic credit requirement in a high school or undergraduate

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institution, or

immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Failure - the failure to meet requirements other than a variance from the strict and literal performance, which results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 340.1130(b)(1).

Sufficient - same as adequate.

Supervision - authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Unless otherwise stated in this Part, the supervisor must be on the premises if the person does not meet assistant level (two-year training program) qualifications specified in these definitions.

Therapeutic Recreation Specialist - a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out - removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

Title XVIII - Title XVIII of the Federal Social Security Act as now or hereafter amended. (Section 1-126 of the Act)

Title XIX - Title XIX of the Federal Social Security Act as now or hereafter amended. (Section 1-127 of the Act)

Transfer - a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

Type A Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial

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probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

Type B Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Universal Progress Notes - a common record with periodic narrative documentation by all persons involved in resident care.

Valid License - a license which is unsuspended, unrevoked and unexpired.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART B: POLICIES AND FACILITY RECORDS

Section 340.1350 Personnel Policies

- a) Sufficient staff in numbers and qualifications shall be on duty all hours of each day to provide services that meet the total needs of the residents. As a minimum, there shall be at least one staff member awake, dressed, and on duty at all times.
- b) The facility shall document all arrangements for each consultant's services in a written agreement setting forth services to be provided. These agreements shall be updated annually.
- c) Each facility shall develop and maintain written personnel policies that are followed in the operation of the facility.
- d) Employment application forms shall be completed for on each employee and kept on file in the facility. Completed forms they shall contain, at a minimum, home address; 7 social security number; 7 educational background; and 7-past employment history, including dates, positions held, and reasons for leaving. The date of employment and position held shall be documented in each file.
- e) Employees shall only be assigned duties that are directly related to their job functions, as identified in their job descriptions. Exceptions may be made in emergencies.
- f) All personnel shall have either training or experience, or both, in the job assigned them.
- g) Prior to employing any individual in a position that requires a State license, the facility shall contact the Illinois Department of Professional Regulation to verify that the individual's license is authorized and in good standing. A copy of the license shall be placed in the individual's personnel file.
- h) The facility shall check the status of all applicants with the Nurse Aide Registry prior to hiring.

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ig) All new employees, including student interns, shall complete an orientation program covering, at a minimum, the following: general facility and resident orientation; job orientation, emphasizing allowable duties of the new employee; resident safety, including fire and disaster, emergency care and basic resident safety; and understanding and communicating with the type of residents being cared for in the facility. In addition, all new direct care staff, including student interns, shall complete an orientation program covering the facility's policies and procedure for resident care services before being assigned to provide direct care to residents. This orientation program shall include information on ~~material~~ regarding the prevention and treatment of decubitus ulcers and the importance of nutrition in general health care.

jh) All employees, except student interns, shall attend in-service ~~inservice~~ training programs pertaining to their assigned duties at least annually. These ~~in-service inservice~~ training programs shall include ~~material-regarding~~ the facility's policies, skill training, and ongoing education ~~carried-out~~ to enable all personnel to perform their duties effectively. The in-service ~~inservice~~ training sessions regarding personal care, nursing and restorative services shall include information on ~~material-concerning~~ prevention and treatment of decubitus ulcers. In-service ~~inservice~~ training concerning dietary services shall include information on the ~~material-concerning~~ effects of diet in treatment of various diseases or medical conditions and the importance of laboratory test results in determining therapeutic diets. Written records of program content and personnel attending each session shall be kept.

ki) Every facility shall have a current employee time schedule. This schedule shall contain the employee's name, job title, shift assignment, hours of work, and days off. The schedule shall be kept on file in the facility for one year after the week for which the schedule was used.

lj) Personnel policies shall include a plan to provide personnel coverage for regular staff when they are absent.

mk) Individual employee work performance evaluations shall be completed and maintained in the employee's file.

nl) The date and reason a person discontinues employment at the facility shall be noted in his/her ~~their~~ file.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART F: RESIDENT LIVING SERVICES

Section 340.1710 Social Services

If the staff member designated to provide social services is not a ~~registered or-certified~~ social worker, the facility shall have an effective arrangement

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with a ~~registered-or-certified~~ social worker to provide social service consultation.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Intermediate Care for the Developmentally Disabled Facilities Code

2) Code Citation: 77 Ill. Adm. Code 350

3) Section Numbers: Proposed Action:

350.330	Amendment
350.670	Amendment
350.820	Amendment
350.830	Repealer
350.1230	Amendment
350.1670	Amendment

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A Complete Description of the Subjects and Issues Involved:

Part 350 establishes licensing requirements for skilled nursing and intermediate care facilities.

Section 350.330 (Definitions) is being amended to update definitions for "Audiologist" and "Facility" and to replace the term "Medical Record Practitioner" with "Health information management consultant".

Section 350.670 (Personnel Policies) is being amended to add two requirements for personnel policies. Prior to employing any individual in a position that requires a State license, the facility will be required to contact the Illinois Department of Professional Regulation to verify that the individual's license is authorized and in good standing. The facility will also be required to check the status of all applicants with the Nurse Aid Registry prior to hiring.

Section 350.820 (Consultation Services) is being amended to delete a reference to health services supervisors who are not registered nurses, to reflect changes in dietary regulations, and to delete unnecessary language.

Section 350.830 (Personnel Policies) is being repealed, since it duplicates language in Section 350.670.

Section 350.1230 (Nursing Services) is being amended to require that the director of nursing (DON) services be a registered nurse. The change will achieve consistency with the requirements of the Nursing and Advanced Practice Nursing Act, which prohibits a licensed practical nurse (LPN) from being a DON.

Section 350.1670 (Staff Responsibility for Medical Records) is being amended to change the terminology for medical records staff, based on

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correspondence from the Illinois Health Information Management Association.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of this notice in the *Illinois Register*.

6) Will these Rulemaking Replace an emergency rulemaking currently in effect?
No

7) Do these Rulemaking Contain an Automatic Repeal Date? No

8) Do these Rulemaking Contain Any Incorporations By Reference? No

9) Are there any other Proposed Amendments Pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
350.750	New Section	25 Ill. Reg. 5857

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Peggy Snyder
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Peggy Snyder at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate its status as such, in writing, in its comments.

12) Initial Regulatory Flexibility Analysis:

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- A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Intermediate care facilities for the developmentally disabled
- B) Reporting, Bookkeeping or Other Procedures Required for Compliance:
None
- C) Types of Professional Skills Necessary for Compliance: Nursing, health information management

13) Regulatory Agenda on which this rulemaking was summarized: July 2001

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 350

INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

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350.130	Licensee
350.140	Issuance of an Initial License for a New Facility
350.150	Issuance of an Initial License Due to a Change of Ownership
350.160	Issuance of a Renewal License
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350.210	Filing an Annual Attested Financial Statement
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350.270	Monitor and Receivership
350.271	Presentation of Findings
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350.274	Determination of the Level of a Violation
350.276	Notice of Violation
350.277	Administrative Warning
350.278	Plans of Correction
350.280	Reports of Correction
350.282	Conditions for Assessment of Penalties
350.284	Calculation of Penalties
350.286	Determination to Assess Penalties
350.288	Reduction or Waiver of Penalties
350.290	Quarterly List of Violators (Repealed)
350.300	Alcoholism Treatment Programs In Long-Term Care Facilities
350.310	Department May Survey Facilities Formerly Licensed
350.315	Supported Congregate Living Arrangement Demonstration
350.320	Waivers
350.330	Definitions
350.340	Incorporated and Referenced Materials

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SUBPART B: ADMINISTRATION

SUBPART F: HEALTH SERVICES

Section
350.510 Administrator

Section
350.1210 Health Services
350.1220 Physician Services

SUBPART C: POLICIES

350.1223 Communicable Disease Policies
350.1225 Tuberculin Skin Test Procedures
350.1230 Nursing Services
350.1235 Life-Sustaining Treatments
350.1240 Dental Services
350.1250 Physical and Occupational Therapy Services

Section

350.610 Management Policies
350.620 Resident Care Policies
350.625 Determination of Need Screening
350.630 Admission and Discharge Policies
350.640 Contract Between Resident and Facility
350.650 Residents' Advisory Council
350.660 General Policies
350.670 Personnel Policies
350.675 Initial Health Evaluation for Employees
350.680 Developmental Disabilities Aides
350.681 Health Care Worker Background Check
350.682 Resident Attendants
350.683 Registry of Developmental Disabilities Aides
350.685 Student Interns
350.690 Disaster Preparedness
350.700 Serious Incidents and Accidents

Section

SUBPART G: MEDICATIONS

350.1410 Medication Policies and Procedures
350.1420 Conformance with Physician's Orders
350.1430 Administration of Medication
350.1440 Labeling and Storage
350.1450 Control of Narcotics and Legend Drugs

SUBPART H: RESIDENT AND FACILITY RECORDS

Section

350.1610 Resident Record Requirements
350.1620 Content of Medical Records
350.1630 Confidentiality of Resident's Records
350.1640 Records Pertaining to Residents' Property
350.1650 Retention and Transfer of Resident Records
350.1660 Other Resident Record Requirements
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350.1690 Other Facility Record Requirements

SUBPART D: PERSONNEL

Section

350.810 Personnel
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SUBPART E: RESIDENT LIVING SERVICES

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350.1010 Service Programs
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350.1040 Speech Pathology and Audiology Services
350.1050 Recreational and Activities Services
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350.1082 Nonemergency Use of Physical Restraints
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SUBPART I: FOOD SERVICE

Section

350.1810 Director of Food Services
350.1820 Dietary Staff in Addition to Director of Food Services
350.1830 Hygiene of Dietary Staff
350.1840 Diet Orders
350.1850 Meal Planning
350.1860 Therapeutic Diets (Repealed)
350.1870 Scheduling Meals
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SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

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350.2010 Maintenance
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Section

350.2210 Furnishings
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SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section

350.2410 Codes
350.2420 Water Supply
350.2430 Sewage Disposal
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SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section

350.2610 Applicability of These Standards
350.2620 Codes and Standards
350.2630 Preparation of Drawings and Specifications
350.2640 Site
350.2650 Administration and Public Areas
350.2660 Nursing Unit
350.2670 Dining, Living, Activities Rooms
350.2680 Therapy and Personal Care
350.2690 Service Departments
350.2700 General Building Requirements
350.2710 Structural
350.2720 Mechanical Systems
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350.2740 Electrical Systems

SUBPART N: CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section

350.2910 Applicability
350.2920 Codes and Standards
350.2930 Preparation of Drawings and Specifications
350.2940 Site

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350.2950 Administration and Public Areas
350.2960 Nursing Unit
350.2970 Living, Dining, Activities Rooms
350.2980 Treatment and Personal Care
350.2990 Service Departments
350.3000 General Building Requirements
350.3010 Structural
350.3020 Mechanical Systems
350.3030 Plumbing Systems
350.3040 Electrical Requirements

SUBPART O: RESIDENT'S RIGHTS

Section

350.3210 General
350.3220 Medical and Personal Care Program
350.3230 Restraints (Repealed)
350.3240 Abuse and Neglect
350.3250 Communication and Visitation
350.3260 Resident's Funds
350.3270 Residents' Advisory Council
350.3280 Contract With Facility
350.3290 Private Right of Action
350.3300 Transfer or Discharge
350.3310 Complaint Procedures
350.3320 Confidentiality
350.3330 Facility Implementation

SUBPART P: SPECIAL STANDARDS FOR INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED OF 16 BEDS OR LESS

Section

350.3710 Applicability of Other Provisions of this Part
350.3720 Administration
350.3730 Admission and Discharge Policies
350.3740 Personnel
350.3750 Consultation Services and Nursing Services
350.3760 Medication Policies
350.3770 Food Services
350.3780 Codes and Standards
350.3790 Administration and Public Areas
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350.3830 Utility Rooms
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350.3850 Therapy and Personal Care
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1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1, effective July 28, 1980; amended at 5 Ill. Reg. 1657, effective February 4, 1981; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6453, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14544, effective November 8, 1982; amended at 6 Ill. Reg. 14675, effective November 15, 1982; amended at 6 Ill. Reg. 15556, effective December 15, 1982; amended at 7 Ill. Reg. 278, effective December 22, 1982; amended at 7 Ill. Reg. 1919 and 1945, effective January 28, 1983; amended at 7 Ill. Reg. 7963, effective July 1, 1983; amended at 7 Ill. Reg. 15817, effective November 15, 1983; amended at 7 Ill. Reg. 16984, effective December 14, 1983; amended at 8 Ill. Reg. 15574 and 15578 and 15581, effective August 15, 1984; amended at 8 Ill. Reg. 15935, effective August 17, 1984; amended at 8 Ill. Reg. 16980, effective September 5, 1984; codified at 8 Ill. Reg. 19806; amended at 8 Ill. Reg. 24214, effective November 29, 1984; amended at 8 Ill. Reg. 24680, effective December 7, 1984; amended at 9 Ill. Reg. 142, effective December 26, 1984; amended at 9 Ill. Reg. 331, effective December 28, 1984; amended at 9 Ill. Reg. 2964, effective February 25, 1985; amended at 9 Ill. Reg. 10876, effective July 1, 1985; amended at 11 Ill. Reg. 14795, effective October 1, 1987; amended at 11 Ill. Reg. 16830, effective October 1, 1987; amended at 12 Ill. Reg. 979, effective December 24, 1987; amended at 12 Ill. Reg. 16838, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18705, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6040, effective April 17, 1989; amended at 13 Ill. Reg. 19451, effective December 1, 1989; amended at 14 Ill. Reg. 14876, effective October 1, 1990; amended at 15 Ill. Reg. 466, effective January 1, 1991; amended at 16 Ill. Reg. 594, effective January 1, 1992; amended at 16 Ill. Reg. 13910, effective September 1, 1992; amended at 17 Ill. Reg. 2351, effective February 10, 1993; emergency amendment at 17 Ill. Reg. 2373, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7948, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; emergency amendment at 17 Ill. Reg. 9105, effective June 7, 1993, for a maximum of 150 days; emergency expired on November 4, 1993; amended at 17 Ill. Reg. 15056, effective September 3, 1993; amended at 17 Ill. Reg. 16153, effective January 1, 1994; amended at 17 Ill. Reg. 19210, effective October 26, 1993; amended at 17 Ill. Reg. 19517, effective November 4, 1993; amended at 17 Ill. Reg. 21017, effective November 20, 1993; amended at 18 Ill. Reg. 1432, effective January 14, 1994; amended at 18 Ill. Reg. 15789, effective October 15, 1994; amended at 19 Ill. Reg. 11481, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 512, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10065, effective July 15, 1996; amended at 20 Ill. Reg. 12049, effective September 10, 1996; amended at 21 Ill. Reg. 14990, effective November 15, 1997; amended at 22 Ill. Reg. 4040, effective February 13, 1998; amended at 22 Ill. Reg. 7172, effective April 15, 1998; amended at 22 Ill. Reg. 16557, effective September 18, 1998; amended at 23 Ill. Reg. 1052, effective January 15, 1999; amended at 23 Ill. Reg. 7970, effective July 15, 1999; amended at 24 Ill. Reg. 17254, effective November 1, 2000; amended at 25 Ill. Reg. 4879, effective April 1, 2001;

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350.3870	Laundry Room
350.3880	General Building Requirements
350.3890	Corridors
350.3900	Special Care Room
350.3910	Exit Facilities and Subdivision of Floor Areas
350.3920	Stairways, Vertical Openings and Doorways
350.3930	Hazardous Areas and Combustible Storage
350.3940	Mechanical Systems
350.3950	Heating, Cooling, and Ventilating Systems
350.3960	Plumbing Systems
350.3970	Electrical Systems
350.3980	Fire Alarm and Detection System
350.3990	Emergency Electrical System
350.4000	Fire Protection
350.4010	Construction Types
350.4020	Equivalencies
350.4030	New Construction Requirements

SUBPART Q: DAY CARE PROGRAMS

Section	Day Care in Long-Term Care Facilities
350.4210	

APPENDIX A Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)

APPENDIX B Federal Requirements Regarding Residents' Rights (Repealed)

APPENDIX C Seismic Zone Map

APPENDIX D Forms for Day Care in Long-Term Care Facilities

APPENDIX E Guidelines for the Use of Various Drugs

TABLE A Sound Transmission Limitations in New Intermediate Care Facilities for the Developmentally Disabled

TABLE B Pressure Relationships and Ventilation Rate of Certain Areas for the New Intermediate Care Facilities for the Developmentally Disabled

TABLE C Construction Types and Sprinkler Requirements for Existing Intermediate Care Facilities for the Developmentally Disabled

TABLE D Food Service Sanitation Rules and Regulations, 77 Ill. Adm. Code 750, 1983 Applicable for New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or Less

TABLE E Construction Types and Sprinkler Requirements for New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or Less

TABLE F Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 495, effective March 1,

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amended at 25 Ill. Reg. 6499, effective May 15, 2001; amended at 26 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 350.330 Definitions

The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

Abuse - any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility. (Section 1-103 of the Act)

Abuse means:

Physical abuse refers to the infliction of injury on a resident that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to residents or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual assault.

Access - the right to:

Enter any facility;

Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;

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Inspect the clinical and other records of a resident with the express written consent of the resident;

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)

Act - as used in this Part, the Nursing Home Care Act [210 ILCS 45].

Activity Program - a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior - the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Adaptive Equipment - a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 350.1080 as a physical restraint.

Addition - any construction attached to the original building which increases the area or cubic content of the building.

Adequate - enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning - a notice to a facility issued by the Department under Section 350.277 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a type A or type B violation.

Administrator - the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate - a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed

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services, and remove barriers to meeting the individual's needs.

Affiliate - means:

With respect to a partnership, each partner thereof.

With respect to a corporation, each officer, director and stockholder thereof.

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)

Aide or Orderly - any person providing direct personal care, training or habilitation services to residents.

Alteration - any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident - a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

Applicant - any person making application for a license. (Section 1-107 of the Act)

Appropriate - term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment - the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

Audiologist - a person who is licensed as an audiologist under the Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]. ~~certified or is eligible for a certificate of clinical competence in audiology granted by the American Speech and Hearing Association under its requirements in effect on the publication of this provision or meets the educational requirements for certification and is in the process of accumulating the supervised experience required for certification.~~

Autism - a syndrome described as consisting of withdrawal, very

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inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.

Autoclave - an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel - all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement - when used in this Part, means any story or floor level below the main or street floor. Where due to grade difference, there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.

Behavior Modification - treatment to be used to establish or change behavior patterns.

Cerebral Palsy - a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX - the issuance of a document by the Department to the Department of Health and Human Services or the Department of Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse - a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical restraint - any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act)

Child Care/Habilitation Aide - any person who provides nursing, personal or rehabilitative care to residents of licensed Long-Term Care Facilities for Persons Under 22 Years of Age, regardless of

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title, and who is not otherwise licensed, certified or registered to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.

Community Alternatives - service programs in the community provided as an alternative to institutionalization.

Continuing Care Contract - a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract - a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience - the use of any restraint by the facility to control resident behavior or maintain a resident, which is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 350.1080 of this Part.

Corporal Punishment - painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident - failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

Dentist - any person licensed to practice dentistry, including persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].

Department - as used in this Part means the Illinois Department of Public Health.

Developmental Disabilities (DD) Aide - any person who provides nursing, personal or habilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render medical care. Other titles often used to refer to DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Developmental Disability - means a severe, chronic disability of a person which:

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is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

is manifested before the person attains age 22;

is likely to continue indefinitely;

results in substantial functional limitations in 3 or more of the following areas of major life activity:

self-care,

receptive and expressive language,

learning,

mobility,

self-direction,

capacity for independent living, and

economic self-sufficiency; and

reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801 of the Act)

Dietetic Service Supervisor - a person who:

is a qualified dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's

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Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in paragraphs (2), (3) or (4) of this definition.

Dietitian - a person who is a licensed dietitian as provided in the Dietetic and Nutrition Services Practice Act [225 ILCS 30].

Direct Supervision - work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director - the Director of Public Health or designee. (Section 1-110 of the Act)

Director of Nursing Service - the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge - the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline - any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part - an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency - a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Epilepsy - a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Existing Long-Term Care Facility - any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of

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the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility, Intermediate Care - a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled - when used in this Part is a facility of three or more persons, or distinct part thereof, serving residents of which more than 50 percent are developmentally disabled.

Facility or Long-Term Care Facility - a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code [55 ILCS 5], or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 USCA 1395 et seq. and 1936 et seq.). It also includes homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs. A "facility" may consist of more than one building as long as the buildings are on the same tract, or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois other than homes, institutions or other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];

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Any "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangement Licensure and Certification Act [210 ILCS 135]; ~~or~~

Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65]; ~~or~~

Any supportive living facility in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5/5-5.01a];

Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act [210 ILCS 9]; or
~~--(Section 1-113 of the Act)~~

An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act [210 ILCS 3]. (Section 1-113 of the Act)

Facility, Long-Term Care, for Residents Under 22 Years of Age - when used in this Part is synonymous with a long-term care facility for residents under 22 years of age, which facility provides total rehabilitative health care to residents who require specialized treatment, training and continuous nursing care because of medical or developmental disabilities.

Facility, Sheltered Care - when used in this Part is synonymous with a sheltered care facility, which facility provides maintenance and personal care.

Facility, Skilled Nursing - when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction

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with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility - having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full time - on duty a minimum of 36 hours, four days per week.

Goal - an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body - the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian - a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [755 ILCS 5]. (Section 1-114 of the Act)

Habilitation - an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health information management consultant - a person who is certified as a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT) by the American Health Information Management Association; or is a graduate of a school of health information management that is accredited jointly by the American Medical Association and the American Health Information Management Association.

Health Services Supervisor - (Director of Nursing Service) the full-time Registered Nurse, ~~or--licensed--practitioner--nurse~~, who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged - any facility which is operated: by a not-for-profit corporation incorporated under, or qualified as a

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foreign corporation under, the General Not For Profit Corporation Act of 1986 [805 ILCS 105]; or, by a county pursuant to Division 5-22 of the Counties Code [55 ILCS 5]; or, pursuant to a trust or endowment established for nonprofit, charitable purposes; and which provides maintenance, personal care, nursing or sheltered care to three or more residents, 90 percent of whom are 60 or more years of age.

Hospitalization - the care and treatment of a person in a hospital as an inpatient in-patient.

Individual Education Program (IEP) - a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) - a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Institutional Occupancy - when used in this Part means Health Care Facilities, Group (a), as defined in Chapter 10, paragraph 10-0001 of the Life Safety Code, National Fire Protection Association (1985 Edition).

Interdisciplinary Team - a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) at least one member of the team shall be a Qualified Mental Retardation Professional. The Interdisciplinary Team includes the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and caregivers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator - a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse - a person with a valid Illinois license to practice as a practical nurse.

Licensee - the person or entity licensed to operate the facility as

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provided under the Act. (Section 1-115 of the Act)

Life Care Contract - a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance - food, shelter, and laundry services. (Section 1-116 of the Act)

Maladaptive Behavior - impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

Medical Record Practitioner - a person who is eligible for certification as a registered record administrator (RRA) or an accredited record technician (ART), by the American Medical Record Association under its requirements; or is a graduate of a school of medical record science that is accredited jointly by the American Medical Association and the American Medical Record Association.

Mentally Retarded and Mental Retardation - subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property - using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory - unable to walk independently or without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.

Mobile Resident - any resident who is able to move about either independently or with the aid of an assistive device such as a walker, crutches, a wheelchair, or a wheeled platform.

Monitor - a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

Neglect - a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or

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mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. This shall include any allegation where:

the alleged failure causing injury or deterioration is ongoing or repetitious; or

a resident required medical treatment as a result of the alleged failure; or

the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New Long-Term Care Facility - any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization - the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

Nurse - a registered nurse or a licensed practical nurse as defined in the Illinois Nursing and Advanced Practice Nursing Act of--1997 [225 ILCS 65]. (Section 1-118 of the Act)

Nursing Assistant - any person who provides nursing care or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care - a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to

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safeguard life and health.

Nursing Unit - a physically identifiable designated area of a facility consisting of all the beds within the designated area, but having no more than 75 beds, none of which are more than 120 feet from the nurse's station.

Objective - an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) - a person who is registered as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75].

Occupational Therapy Assistant - a person who is registered as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator - the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury - occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight - general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

Owner - the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person - any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

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Personal Care - assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person, whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered - a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].

Physical restraint - any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

Physical Therapist Assistant - a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist - a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

Physician - any person licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].

Probationary License - an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

Psychiatrist - a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist - a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Mental Retardation Professional - a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

Be a physician as defined in this Section.

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Be a registered nurse as defined in this Section.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational speciality area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

Qualified Professional - a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered or certified by the State of Illinois, if required.

Reasonable visiting hours - any time between the hours of 10 a.m. and 8 p.m. daily. (Section 1-121 of the Act)

Registered Nurse - a person with a valid license to practice as a registered professional nurse under the ~~Illinois~~ Illinois Nursing and Advanced Practice Nursing Act ~~of 1987~~.

Repeat Violation - For purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

Reputable Moral Character - having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

Resident - person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director - the full-time administrator, or an

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individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

Resident's Representative - a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

Restorative Care - a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Room - a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Sanitization - the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory - same as adequate.

Seclusion - the retention of a resident alone in a room with a door that the resident cannot open.

Self Preservation - the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

Sheltered Care - maintenance and personal care. (Section 1-124 of the Act)

Social Worker - a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal - the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization - the act or process of destroying completely all forms of microbial life, including viruses.

Stockholder of a Corporation - any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation. (Section 1-125 of the Act)

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Story - when used in this Part means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

Student Intern - means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:

an academic credit requirement in a high school or undergraduate institution, or

immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Compliance - meeting requirements except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 350.140(a)(3) and 350.150(a)(3).

Substantial Failure - the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 350.165(b)(1).

Sufficient - same as adequate.

Supervision - authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

Therapeutic Recreation Specialist - a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out - removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified

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professional.

Title XVIII - Title XVIII of the Federal Social Security Act as now or hereafter amended. (Section 1-126 of the Act)

Title XIX - Title XIX of the Federal Social Security Act as now or hereafter amended. (Section 1-127 of the Act)

Transfer - a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

Type A Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

Type B Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Unit - an entire physically identifiable residence area having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective rules governing the approved levels of service.

Universal Progress Notes - a common record with periodic narrative documentation by all persons involved in resident care.

Valid License - a license which is unsuspended, unrevoked and unexpired.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART C: POLICIES

Section 350.670 Personnel Policies

a) Each facility shall develop and maintain written personnel policies that ~~which~~ are followed in the operation of the facility. These policies shall include, at a minimum, each of the requirements of this Section.

b) Employee Records

1) Employment application forms shall be completed for each employee and kept on file in the facility. Completed forms they shall be

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available to Department personnel for review.

2) Individual personnel files for each employee shall contain date of employment; 7 date of birth; 7 home address; 7 educational background; 7 and past experience, including types of employment, where previously employed, type-of position employed to fill in this facility, and (if no longer employed in this facility) last day employed ~~(if no longer in present facility)~~ and reasons for leaving.

3) Individual personnel files for each employee shall also contain health records, including the initial health evaluation and ~~required under Section 350.675(a)~~ 7 the results of the tuberculin skin test required under Section 350.675(e) 7, and any other pertinent health records.

4) Individual personnel records for each employee shall also contain records of evaluation of performance

c) Prior to employing any individual in a position that requires a State license, the facility shall contact the Illinois Department of Professional Regulation to verify that the individual's license is authorized and in good standing. A copy of the license shall be placed in the individual's personnel file.

d) The facility shall check the status of all applicants with the Nurse Aide Registry prior to hiring.

e) ~~All~~ All personnel shall have either training or experience, or both, in the job assigned to them. ~~(B)~~

f) ~~Orientation and In-Service Training~~

1) All new employees, including student interns, shall complete an orientation program covering, at a minimum, the following: general facility and resident orientation; job orientation, emphasizing allowable duties of the new employee; resident safety, including fire and disaster, emergency care and basic resident safety; and 7 understanding and communicating with the type of residents being cared for in the facility, ~~such as geriatric, pediatric or developmentally disabled~~. In addition, all new direct care staff, including student interns, shall complete an orientation program covering the facility's policies and procedures for resident care services before being assigned to provide direct care to residents. This orientation program shall include information on ~~material~~ regarding the prevention and treatment of decubitus ulcers and the importance of nutrition in general health care.

2) All employees, except student interns, shall attend in-service training programs pertaining to their assigned duties at least annually. These in-service training programs shall include ~~material~~ regarding the facility's policies, skill training and ongoing education ~~carried out~~ to enable all personnel to perform their duties effectively. The in-service training sessions regarding personal care, nursing and restorative services shall include information on the ~~material~~ concerning prevention and

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treatment of decubitus ulcers ~~(commonly known as bed sores)~~. In-service training concerning dietary services shall include information on the ~~material concerning~~ effects of diet in treatment of various diseases or medical conditions and the importance of laboratory test results in determining therapeutic diets. Written records of program content for each session and of personnel attending each session shall be kept. ~~(b)~~

~~g)~~ Employees shall only be assigned duties that ~~which~~ are directly related to their job functions, as identified in their job descriptions. Exceptions may be made in emergencies.

~~h)~~ Personnel policies shall include a plan to provide personnel coverage for regular staff when they are absent. ~~(a)-(b)~~

~~i)~~ Every facility shall have a current, dated weekly employee time schedule posted in a ~~convenient place~~ where employees may refer to it. This schedule shall contain employee's name, job title, shift assignment, hours of work and days off. The schedule shall be kept on file in the facility for one year after the week for which the schedule was used.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART D: PERSONNEL

Section 350.820 Consultation Services

- a) The facility shall have all arrangements for each consultant's services in a written agreement setting forth the services to be provided. These agreements shall be updated annually.
- b) The facility shall designate a staff member to provide social services to residents. If the staff member designated to provide social services is not a social worker, the facility shall have an effective arrangement with a social worker to provide social services consultation.
- c) ~~If the supervisor of health services is not a registered nurse arrangements shall be made for consultation from a person so qualified. The consultant shall assist with the development of policies, methods, and procedures relating to the medical program and in-service training for all aspects of personal and nursing care. The consultant shall give this consultation in the facility not less than four hours each week.~~

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 350.830 Personnel Policies ~~(Repealed)~~

~~The personnel policies required in Section 350.670 and other personnel policies~~

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~~adopted by the facility shall be followed in the operation of the facility.~~

(Source: Repealed at 26 Ill. Reg. _____, effective _____)

SUBPART F: HEALTH SERVICES

Section 350.1230 Nursing Services

- a) Each facility shall have a full-time director of nursing services (DON) who is a registered nurse (RN) ~~and a licensed practical nurse (LPN)~~ whose only responsibility is the immediate supervision of the facility's health services. This person shall be on duty a minimum of 36 hours, four days per week. At least 50 percent of this person's hours shall be regularly scheduled between 7 A.M. and 7 P.M.
 - 1) A registered nurse ~~or a licensed practical nurse~~ shall be on duty 24 hours per day and seven days per week in charge of health services at all times when the director of nursing services is not on duty.
 - 2) A facility may, with written approval from the Department, have two registered nurses share the duties of this position if the facility is unable to obtain a full-time person. Such an arrangement will be granted approval only through written documentation that the facility was unable to obtain the full-time services of a qualified individual to fill this position. Such documentation shall include, but not be limited to: an advertisement that has appeared in a newspaper of general circulation in the area for at least three weeks; the names, addresses and phone numbers of all persons who applied for the position and the reasons why they were not acceptable or would not work full time; and information about the number and availability of registered licensed nurses in the area. The Department will grant approval only when such documentation indicates that there were no qualified applicants who were willing to accept the job on a full-time basis, and the pool of nurses available in the area cannot be expected to produce, in the near future, a qualified person who is willing to work full time.
 - 3) ~~If two persons are to share the position, one shall be designated the DON and the other shall be designated the assistant director of nursing (ADON). Both of these persons may be registered nurses, both may be licensed practical nurses, or one may be an RN and the other an LPN. In the latter case, the RN shall be designated the DON and the LPN shall be designated the ADON.~~
- 3) ~~In facilities with a capacity of fewer than 50 beds, this person (or these persons) may also provide direct patient care, and this person's time may be included in meeting the staff to resident ratio requirements.~~

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- 5) ~~If the director of nursing services is a licensed practical nurse, arrangements shall be made for not less than four hours each week of consultation from a registered nurse in the facility. The consultant shall assist with the development of policies, methods, and procedures relating to the medical program and in-service training for all aspects of personal and nursing care.~~

b) Residents shall be provided with nursing services, in accordance with their needs, which shall include, but are not limited to, the following: The DON shall participate in:

- 1) Pre-admission evaluation study and plan.
- 2) Evaluation study, program design, and placement of the resident at the time of admission to the facility.
- 3) Periodic reevaluation of the type, extent, and quality of services and programming.
- 4) Development of discharge plans, and the referral to appropriate community resources.
- 5) Training in habits in personal hygiene and activities of daily living.
- 6) Development of a written plan for each resident to provide for nursing services as part of the total habilitation program.
- 7) Modification of the resident care plan, in terms of the resident's daily needs, as needed.

c) A registered nurse shall participate, as appropriate, in planning and implementing the training of facility personnel.

d) Direct care personnel shall be trained in, but are not limited to, the following:

- 1) Detecting signs of illness, dysfunction or maladaptive behavior that warrant medical, nursing or psychosocial intervention.
- 2) Basic skills required to meet the health needs and problems of the residents.
- 3) First aid in the presence of accident or illness.

e) Sufficient, appropriately qualified nursing staff shall be available, which may include licensed practical nurses and other supporting personnel, to carry out the various nursing service activities.

f) The individual responsible for providing nursing services shall have knowledge and experience in the field of developmental disabilities.

g) Nursing service personnel at all levels of experience and competence shall be assigned responsibilities in accordance with their qualifications.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART H: RESIDENT AND FACILITY RECORDS

Section 350.1670 Staff Responsibility for Medical Records

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The facility shall designate a staff member who is skilled in record maintenance and preservation to be responsible for maintaining and preserving medical records. If the designated person is not a health information management consultant ~~medical records practitioner~~ as defined in Section 350.330, then the designated person shall receive consultation from a health information management consultant ~~medical records practitioner~~ in order to meet the medical record requirements ~~of contained in this Part.~~

(Source: Amended at 26 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Long-Term Care for Under Age 22 Facilities Code

2) Code Citation: 77 Ill. Adm. Code 390

3) Section Numbers: Proposed Action:

390.330 Amendment

390.670 Amendment

390.830 Amendment

390.1670 Amendment

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A Complete Description of the Subjects and Issues Involved: Part 390 establishes licensing requirements for long-term care facilities under age 22.

Section 390.330 (Definitions) is being amended to update definitions for "Audiologist" and "Facility" and to replace the term "Medical Record Practitioner" with "Health information management consultant".

Section 390.670 (Personnel Policies) is being amended to add two requirements of personnel policies. Prior to employing any individual in a position that requires a State license, the facility will be required to contact the Illinois Department of Professional Regulation to verify that the individual's license is authorized and in good standing. The facility will also be required to check the status of all applicants with the Nurse Aide Registry prior to hiring.

Section 390.830 (Consultation Services) is being amended to delete consultation requirements for health services supervisors who are not registered nurses, to reflect changes in dietary regulations, and to delete unnecessary language.

Section 390.1670 (Staff Responsibility for Medical Records) is being amended to change the terminology for medical records staff, based on correspondence from the Illinois Health Information Management Association.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of this notice in the *Illinois Register*.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

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7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers

390.750

Proposed Action

Amendment

Illinois Register Citation

25 Ill. Reg. 5867

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois Register to:

Peggy Snyder

Division of Legal Services

Illinois Department of Public Health

535 West Jefferson St., 5th Floor

Springfield, Illinois 62761

217/782-2043

e-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Peggy Snyder at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate its status as such, in writing, in its comments.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Long-term care facilities for persons under age 22.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: Health information management

13) Regulatory Agenda on which this rulemaking was summarized: July 2001

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The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 390

LONG-TERM CARE FOR UNDER AGE 22 FACILITIES CODE

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390.110	General Requirements
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390.288	Reduction or Waiver of Penalties
390.290	Quarterly List of Violators (Repealed)
390.300	Alcoholism Treatment Programs in Long-Term Care Facilities
390.310	Department May Survey Facilities Formerly Licensed
390.315	Supported Congregate Living Arrangement Demonstration
390.320	Waivers
390.330	Definitions
390.340	Incorporated and Referenced Materials

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Section 390.610	Management Policies
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SUBPART E: HEALTH AND DEVELOPMENTAL SERVICES

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SUBPART G: MEDICATIONS

Section 390.1410	Medication Policies and Procedures
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Section

390.2410 Codes
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SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW FACILITIES

Section

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390.2670 Dining, Play, Activity/Program Rooms
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SUBPART N: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING FACILITIES

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390.2960 Nursing Unit

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Section

390.3210 General
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SUBPART P: DAY CARE PROGRAMS

Section

390.3510 Day Care in Long-Term Care Facilities

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Interpretation and Illustrative Services for Long-Term Care
Facility for Residents Under 22 Years of Age (Repealed)
Forms for Day Care in Long-Term Care Facilities
Guidelines for the Use of Various Drugs

APPENDIX B

Infant Feeding
Daily Nutritional Requirements By Age Group

APPENDIX C

Sound Transmissions Limitations
Pressure Relationships and Ventilation Rates of Certain Areas for
New Long-Term Care Facilities for Persons Under Twenty-Two (22)

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Years of Age
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Heat Index Table/Apparent Temperature

TABLE B

Implementing and authorized by the Nursing Home Care Act [210 ILCS

TABLE C

TABLE D

TABLE E

TABLE F

AUTHORITY:

45].

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SOURCE: Adopted at 6 Ill. Reg. 1658, effective February 1, 1982; emergency amendment at 6 Ill. Reg. 3223, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11622, effective September 14, 1982; amended at 6 Ill. Reg. 14557 and 14560, effective November 8, 1982; amended at 6 Ill. Reg. 14678, effective November 15, 1982; amended at 7 Ill. Reg. 282, effective December 22, 1982; amended at 7 Ill. Reg. 1927, effective January 28, 1983; amended at 7 Ill. Reg. 8574, effective July 11, 1983; amended at 7 Ill. Reg. 15821, effective November 15, 1983; amended at 7 Ill. Reg. 16988, effective December 14, 1983; amended at 8 Ill. Reg. 15585, 15589, and 15592, effective August 15, 1984; amended at 8 Ill. Reg. 16989, effective September 5, 1984; codified at 8 Ill. Reg. 19823; amended at 8 Ill. Reg. 24159, effective November 29, 1984; amended at 8 Ill. Reg. 24656, effective December 7, 1984; amended at 8 Ill. Reg. 25083, effective December 14, 1984; amended at 9 Ill. Reg. 122, effective December 26, 1984; amended at 9 Ill. Reg. 10785, effective July 1, 1985; amended at 11 Ill. Reg. 16782, effective October 1, 1987; amended at 12 Ill. Reg. 931, effective December 24, 1987; amended at 12 Ill. Reg. 16780, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18243, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6301, effective April 17, 1989; amended at 13 Ill. Reg. 19521, effective December 1, 1989; amended at 14 Ill. Reg. 14904, effective October 1, 1990; amended at 15 Ill. Reg. 1878, effective January 25, 1991; amended at 16 Ill. Reg. 623, effective January 1, 1992; amended at 16 Ill. Reg. 14329, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2390, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7974, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15073, effective September 3, 1993; amended at 17 Ill. Reg. 16167, effective January 1, 1994; amended at 17 Ill. Reg. 19235, effective October 26, 1993; amended at 17 Ill. Reg. 19547, effective November 4, 1993; amended at 17 Ill. Reg. 21031, effective November 20, 1993; amended at 18 Ill. Reg. 1453, effective January 14, 1994; amended at 18 Ill. Reg. 15807, effective October 15, 1994; amended at 19 Ill. Reg. 11525, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 535, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10106, effective July 15, 1996; amended at 20 Ill. Reg. 12101, effective September 10, 1996; amended at 22 Ill. Reg. 4062, effective February 13, 1998; amended at 22 Ill. Reg. 7188, effective April 15, 1998; amended at 22 Ill. Reg. 16576, effective September 18, 1998; amended at 23 Ill. Reg. 1069, effective January 15, 1999; amended at 23 Ill. Reg. 8021, effective July 15, 1999; amended at 24 Ill. Reg. 17283, effective November 1, 2000; amended at 25 Ill. Reg. 4890, effective April 1, 2001; amended at 26 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 390.330 Definitions

The terms defined in this Section are terms that are used in one or more of

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the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

Abuse - any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility. (Section 1-103 of the Act)

Abuse means:

Physical abuse refers to the infliction of injury on a resident that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to residents or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual assault.

Access - the right to:

Enter any facility;

Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;

Inspect the clinical and other records of a resident with the express written consent of the resident;

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)

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Act - as used in this Part, the Nursing Home Care Act [210 ILCS 45].

Activity Program - a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior - the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Adaptive Equipment - a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 390.1310 as a physical restraint.

Addition - any construction attached to the original building which increases the area or cubic content of the building.

Adequate - enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning - a notice to a facility issued by the Department under Section 390.277 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a type A or type B violation.

Administrator - the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate - a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Affiliate - means:

With respect to a partnership, each partner thereof.

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With respect to a corporation, each officer, director and stockholder thereof.

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)

Aide or Orderly - any person providing direct personal care, training or habilitation services to residents.

Alteration - any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident - a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

Applicant - any person making application for a license. (Section 1-107 of the Act)

Appropriate - term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment - the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

~~Audiologist - a person who is licensed as an audiologist under the Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].
certified or is eligible for a certificate of clinical competence in audiology granted by the American Speech and Hearing Association under its requirements in effect on the publication of this provision or meets the educational requirements for certification and is in the process of accumulating the supervised experience required for certification.~~

Autism - a syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.

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Autoclave - an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel - all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement - when used in this Part, means any story or floor level below the main or street floor. Where due to grade difference, there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.

Behavior Modification - treatment to be used to establish or change behavior patterns.

Cerebral Palsy - a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX - the issuance of a document by the Department to the Department of Health and Human Services or the Department of Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse - a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical Restraint - Any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act)

Child Care/Habilitation Aide - any person who provides nursing, personal or rehabilitative care to residents of licensed Long-Term Care Facilities for Persons Under 22 Years of Age, regardless of title, and who is not otherwise licensed, certified or registered to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.

Community Alternatives - service programs in the community provided as an alternative to institutionalization.

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Continuing Care Contract - a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract - a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience - the use of any restraint by the facility to control resident behavior or maintain a resident, which is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 390.1310 of this Part.

Corporal Punishment - painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident - failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

Dentist - any person licensed by the State of Illinois to practice dentistry, includes persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].

Department - as used in this Part means the Illinois Department of Public Health.

Developmental Disabilities (DD) Aide - any person who provides nursing, personal or rehabilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render medical care. Other titles often used to refer to DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Developmental Disability - means a severe, chronic disability of a person which:

is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

is manifested before the person attains age 22;

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is likely to continue indefinitely;
results in substantial functional limitations in 3 or more of the following areas of major life activity:
self-care,
receptive and expressive language,
learning,
mobility,
self-direction,
capacity for independent living, and
economic self-sufficiency; and

reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801 of the Act)

Dietetic Service Supervisor - a person who:

is a dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in the second, third or fourth paragraph ~~paragraphs-(2), (3)-or-(4)~~ of this definition.

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Dietitian - a person who is a licensed dietitian as provided in the Dietetic and Nutrition Services Practice Act [225 ILCS 30].

Direct Supervision - work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director - the Director of Public Health or designee. (Section 1-110 of the Act)

Director of Nursing Service - the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge - the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline - any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part - an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency - a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Epilepsy - a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Existing Long-Term Care Facility - any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

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Facility, Intermediate Care - a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled - when used in this Part, is a facility of three or more persons, or distinct part thereof, serving residents of which more than 50 percent are developmentally disabled.

Facility or Long-Term Care Facility - a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code [55 ILCS 5] or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 USCA 1395 et seq. and 1936 et seq.). It also includes homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs. A "facility" may consist of more than one building as long as the buildings are on the same tract, or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois other than homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities thereof, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];

Any "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

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Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]; or

Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65]; or

Any supportive living facility in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5/5-5.01a]; or

Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act [210 ILCS 9]; or

An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act [210 ILCS 3]. (Section 1-113 of the Act)

Facility, Long-Term Care, for Residents Under 22 Years of Age - when used in this Part is synonymous with a long-term care facility for residents under 22 years of age, which facility provides total rehabilitative health care to residents who require specialized treatment, training and continuous nursing care because of medical or developmental disabilities.

Facility, Sheltered Care - when used in this Part is synonymous with a sheltered care facility, which facility provides maintenance, and personal care.

Facility, Skilled Nursing - when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility - having sufficient assets to provide

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adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full-time - on duty a minimum of 36 hours, four days per week.

Goal - an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body - the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian - a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [755 ILCS 5]. (Section 1-114 of the Act)

Habilitation - an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health information management consultant - a person who is certified as a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT) by the American Health Information Management Association; or is a graduate of a school of health information management that is accredited jointly by the American Medical Association and the American Health Information Management Association.

Health Services Supervisor - (Director of Nursing Service) the full-time Registered Nurse, ~~or Licensed Nurse~~, who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged - any facility which is operated: by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under, the General Not For Profit Corporation Act of 1986 [805 ILCS 105]; or, by a county pursuant to Division 5-22 of the Counties Code [55 ILCS 5]; or, pursuant to a trust or endowment established for nonprofit, charitable purposes; and which provides maintenance, personal care, nursing or sheltered care to three or

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more residents, 90 percent of whom are 60 or more years of age.

Hospitalization - the care and treatment of a person in a hospital as an inpatient in-patient.

Individual Education Program (IEP) - a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) - a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Interdisciplinary Team - a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) at least one member of the team shall be a Qualified Mental Retardation Professional. The Interdisciplinary Team includes the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and caregivers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator - a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse - a person with a valid Illinois license to practice as a practical nurse.

Licensee - the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract - a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance - food, shelter, and laundry services. (Section 1-116 of the Act)

Maladaptive Behavior - impairment in adaptive behavior as determined

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by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

~~Medical--Record--Practitioner-----a-person-who-----is-eligible--for certification-as-a--registered--record--administrator--(RRA)--or--an accredited--record--technician--(ART)--by-the--American-Medical-Record Association-under-its-requirements--or-is-a-graduate-of-a--school--of medical--record--science--that--is--accredited-jointly-by-the-American Medical--Association-and-the-American-Medical-Record--Association.~~

Mentally Retarded and Mental Retardation - subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property - using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory - unable to walk independently or without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.

Mobile Resident - any resident who is able to move about either independently or with the aid of an assistive device such as a walker, crutches, a wheelchair, or a wheeled platform.

Monitor - a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

Neglect - a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. This shall include any allegation where:

the alleged failure causing injury or deterioration is ongoing or repetitious; or

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a resident required medical treatment as a result of the alleged failure; or

the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New Long-Term Care Facility - any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization - the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

~~Nurse - a registered nurse or a licensed practical nurse as defined in the ~~Illness~~ Nursing and Advanced Practice Nursing Act of 1987 [225 ILCS 65].~~ (Section 1-118 of the Act)

Nursing Assistant - any person who provides nursing care or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care - a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit - a physically identifiable designated area of a facility consisting of all the beds within the designated area, but having no more than 75 beds, none of which are more than 120 feet from the nurse's station.

Objective - an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

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Occupational Therapist, Registered (OTR) - a person who is registered as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75].

Occupational Therapy Assistant - a person who is registered as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator - the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury - occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight - general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

Owner - the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person - any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

Personal Care - assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person, whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered - a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].

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Physical Restraint - any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

Physical Therapist Assistant - a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist - a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

Physician - any person licensed by the State of Illinois to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].

Probationary License - an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

Psychiatrist - a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist - a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Mental Retardation Professional - a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

Be a physician as defined in this Section.

Be a registered nurse as defined in this Section.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational specialty area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

Qualified Professional - a person who meets the educational, technical and ethical criteria of a health care profession, as

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evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified by the State of Illinois, if required.

Reasonable Visiting Hours - any time between the hours of 10:00 a.m. and 8:00 p.m. daily. (Section 1-121 of the Act)

Registered Nurse - a person with a valid Illinois license to practice as a registered professional nurse under the ~~Illinois~~ Nursing and Advanced Practice Nursing Act of 1987.

Repeat Violation - For purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

Reputable Moral Character - having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

Resident - person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director - the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

Resident's Representative - a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

Restorative Care - a health care process designed to assist residents

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to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Room - a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Sanitization - the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory - same as adequate.

Seclusion - the retention of a resident alone in a room with a door that the resident cannot open.

Self Preservation - the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

Sheltered Care - maintenance and personal care. (Section 1-124 of the Act)

Social Worker - A person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal - the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization - the act or process of destroying completely all forms of microbial life, including viruses.

Stockholder of a Corporation - any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation. (Section 1-125 of the Act)

Story - when used in this Part means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

Student Intern - means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:

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an academic credit requirement in a high school or undergraduate institution; or

immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Compliance - meeting requirements except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 390.140(a)(3) and 390.150(a)(3).

Substantial Failure - the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 390.165(b)(1).

Sufficient - Same as adequate.

Supervision - authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

Therapeutic Recreation Specialist - a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out - removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

Title XVIII - Title XVIII of the Federal Social Security Act as now or hereafter amended. (Section 1-126 of the Act)

Title XIX - Title XIX of the Federal Social Security Act as now or hereafter amended. (Section 1-127 of the Act)

Transfer - a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

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Type A Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

Type B Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Unit - an entire physically identifiable residence area having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective rules governing the approved levels of service.

Universal Progress Notes - a common record with periodic narrative documentation by all persons involved in resident care.

Valid License - a license which is unsuspended, unrevoked and unexpired.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART C: POLICIES

Section 390.670 Personnel Policies

- a) Each facility shall develop and maintain written personnel policies, which are followed in the operation of the facility. These policies shall include, at a minimum, each of the requirements of this Section.
- b) Employee Records
 - 1) Employment application forms shall be completed for each employee and kept on file in the facility. Completed forms shall be available to Department personnel for review.
 - 2) Individual personnel files for each employee shall contain date of employment; date of birth; home address; educational background; and past experience, including types of employment, where previously employed, type of position employed to fill in this facility, and (if no longer employed in this facility) last day employed (if no longer in present facility) and reasons for leaving.
 - 3) Individual personnel files for each employee shall also contain health records, including the initial health evaluation and required under Section 390.675(a); the results of the tuberculin skin test required under Section 390.675(e), and any other

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pertinent health records.

- 4) Individual personnel records for each employee shall also contain records of evaluation of performance.

c) Prior to employing any individual in a position that requires a State license, the facility shall contact the Illinois Department of Professional Regulation to verify that the individual's license is authorized and in good standing. A copy of the license shall be placed in the individual's personnel file.

d) The facility shall check the status of all applicant's with the Nurse Aide Registry prior to hiring.

ee) All persons in supervisory or other responsible positions shall be at least 18 years of age.

fa) All personnel shall have either training or experience, or both, in the job assigned to them. (B)

ge) Orientation and In-Service Training

- 1) All new employees, including student interns, shall complete an orientation program covering, at a minimum, the following: general facility and resident orientation; job orientation, emphasizing allowable duties of the new employee; resident safety, including fire and disaster, emergency care and basis resident safety; and understanding and communicating with the type of residents being cared for in the facility, such as geriatric, pediatric, developmentally disabled. In addition, all new direct care staff, including student interns, shall complete an orientation program covering the facility's policies and procedures concerning topics listed in Section 390.620(b)(6) before being assigned to provide direct care to residents. This orientation program shall include information on material regarding the prevention and treatment of decubitus ulcers and the importance of nutrition in general health care.

- 2) All employees, except student interns shall attend in-service training programs pertaining to their assigned duties at least annually. These in-service training programs shall include material regarding the facility's policies, skill training and ongoing education carried out to enable all personnel to perform their duties effectively. The in-service training sessions regarding personal care, nursing and restorative services shall include information on the material concerning prevention and treatment of decubitus ulcers commonly known as bed sores. In-service training concerning dietary services shall include information on the material concerning effects of diet in treatment of various diseases or medical conditions and the importance of laboratory test results in determining therapeutic diets. Written records of program content for each session and of personnel attending each session shall be kept. (B)
- hf) Employees shall only be assigned duties that which are directly related to their job functions, as identified in their job descriptions. Exceptions may be made in emergencies.

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ig) Personnel policies shall include a plan to provide personnel coverage for regular staff when they are absent. (A)-(B)

ih) Every facility shall have a current dated weekly employee time schedule posted in a convenient place where employees may refer to it. This schedule shall contain employee's name, job title, shift assignment, hours of work and days off. The schedule shall be kept on file in the facility for one year after the week for which the schedule was used.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART D: PERSONNEL

Section 390.830 Consultation Services

a) The facility shall have all arrangements for each consultant's services in a written agreement setting forth the services to be provided. These agreements shall be updated annually.

b) The facility shall designate a staff member to provide social services to residents. If the staff member designated to provide social services is not a qualified social worker, the facility shall have an effective arrangement with a qualified social worker to provide social service consultation.

c) A qualified social worker is one who meets the definition in Section 390.930.

cd) The facility shall designate a staff member to be the director of the activities program. If a facility does not have a Registered Occupational Therapist, or a Therapeutic Recreation Specialist, or a social worker Certified Social Worker employed as an activity director, it shall have a written agreement made with a person from one of those disciplines, to provide adequate and sufficient consultation to the Activity Director in order to assure the appropriateness of programming to meet the assessed needs of the residents.

de) The facility shall designate a staff member skilled in record maintenance and preservation to be responsible for maintaining and preserving records. If the designated person is not a health information management consultant qualified--Medical--Records practitioner, then that person shall receive adequate consultation from a health information management consultant person--so-qualified.

ef) The facility shall arrange make--arrangements for a consultant pharmacist as set forth in Section 390.1410.

fg) The facility shall arrange make--arrangements for a medical advisory committee as set forth in Section 390.1020(b).

gh) The facility shall arrange make--arrangements for an advisory dentist as set forth in Section 390.1050(a).

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(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART H: RESIDENT AND FACILITY RECORDS

Section 390.1670 Staff Responsibility for Medical Records

The facility shall designate a staff member skilled in record maintenance and preservation who shall be responsible for maintaining and preserving medical records. If the designated person is not a health information management consultant ~~medical records practitioner (as defined in Section 390.330)~~, then the designated person shall receive consultation from a health information management consultant ~~medical records practitioner~~ in order to meet the medical record requirements of contained in this Part.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Sheltered Care Facilities Code

2) Code Citation: 77 Ill. Adm. Code 330

3) Section Numbers:
330.330 Proposed Action:
Amendment
330.760 Amendment
330.920 Amendment

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A Complete Description of the Subjects and Issues Involved: Part 330 establishes licensing requirements for sheltered care facilities.

Section 330.330 (Definitions) is being amended to update definitions for "Audiologist" and "Facility" and to replace the term "Medical Record Practitioner" with "Health information management consultant."

Section 330.760 (Personnel Policies) is being amended to add two requirements for personnel policies. Prior to employing any individual in a position that requires a State license, the facility will be required to contact the Illinois Department of Professional Regulation to verify that the individual's license is authorized and in good standing. The facility will also be required to check the status of all applicants with the Nurse Aide Registry prior to hiring.

Section 330.920 (Consultation Services) is being amended to delete consultation requirements for health services supervisors who are not registered nurses, to reflect changes in dietary regulations, and to delete unnecessary language.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of this notice in the *Illinois Register*.

6) Will this Rulemaking Replace an Emergency Rulemaking Currently in Effect?
No

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain Any Incorporations By Reference? No

9) Are there any other Proposed Amendments Pending on this Part? Yes

Section Numbers Proposed Action Ill. Reg. Citation

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330.785 New Section 25 Ill. Reg. 6436

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Peggy Snyder
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Peggy Snyder at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate its status as such, in writing, in its comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Sheltered care facilities

B) Reporting, Bookkeeping or Other Procedures Required for Compliance:
None

C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2001

The full text of the Proposed Amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 330

SHELTERED CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
330.110	General Requirements
330.120	Application for License
330.130	Licensee
330.140	Issuance of an Initial License For a New Facility
330.150	Issuance of an Initial License Due to a Change of Ownership
330.160	Issuance of a Renewal License
330.163	Alzheimer's Special Care Disclosure
330.165	Criteria for Adverse Licensure Actions
330.170	Denial of Initial License
330.175	Denial of Renewal of License
330.180	Revocation of License
330.190	Experimental Program Conflicting With Requirements
330.200	Inspections, Surveys, Evaluations and Consultation
330.210	Filing an Annual Attested Financial Statement
330.220	Information to be Made Available to the Public By the Department
330.230	Information to be Made Available to the Public By the Licensee
330.240	Municipal Licensing
330.250	Ownership Disclosure
330.260	Issuance of Conditional Licenses
330.270	Monitoring and Receivership
330.271	Presentation of Findings
330.272	Determination to Issue a Notice of Violation or Administrative Warning
330.274	Determination of the Level of a Violation
330.276	Notice of Violation
330.277	Administrative Warning
330.278	Plans of Correction
330.280	Reports of Correction
330.282	Conditions for Assessment of Penalties
330.284	Calculation of Penalties
330.286	Determination to Assess Penalties
330.288	Reduction or Waiver of Penalties
330.290	Quarterly List of Violators (Repealed)
330.300	Alcoholism Treatment Programs In Long-Term Care Facilities
330.310	Department May Survey Facilities Formerly Licensed
330.315	Supported Congregate Living Arrangement Demonstration
330.320	Waivers
330.330	Definitions

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330.340 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section
330.510 Administrator

SUBPART C: POLICIES

Section

330.710 Resident Care Policies
330.720 Admission and Discharge Policies
330.730 Contract Between Resident and Facility
330.740 Residents' Advisory Council
330.750 General Policies
330.760 Personnel Policies
330.765 Initial Health Evaluation for Employees
330.770 Disaster Preparedness
330.780 Serious Incidents and Accidents

SUBPART D: PERSONNEL

Section

330.910 Personnel
330.911 Health Care Worker Background Check
330.913 Nursing and Personal Care Assistants (Repealed)
330.916 Student Interns (Repealed)
330.920 Consultation Services
330.930 Personnel Policies

SUBPART E: HEALTH SERVICES AND MEDICAL CARE OF RESIDENTS

Section

330.1110 Medical Care Policies
330.1120 Personal Care
330.1125 Life Sustaining Treatments
330.1130 Communicable Disease Policies
330.1135 Tuberculin Skin Test Procedures
330.1140 Behavior Emergencies (Repealed)
330.1145 Restraints
330.1150 Emergency Use of Physical Restraints
330.1155 Unnecessary, Psychotropic, and Antipsychotic Drugs

SUBPART F: RESTORATIVE SERVICES

Section

330.1310 Activity Program
330.1320 Work Programs

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330.1330 Written Policies for Restorative Services
330.1340 Volunteer Program

SUBPART G: MEDICATIONS

Section

330.1510 Medication Policies
330.1520 Administration of Medication
330.1530 Labeling and Storage of Medications

SUBPART H: RESIDENT AND FACILITY RECORDS

Section

330.1710 Resident Record Requirements
330.1720 Content of Medical Records
330.1730 Records Pertaining to Residents' Property
330.1740 Retention and Transfer of Resident Records
330.1750 Other Resident Record Requirements
330.1760 Retention of Facility Records
330.1770 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section

330.1910 Director of Food Services
330.1920 Dietary Staff in Addition to Director of Food Services
330.1930 Hygiene of Dietary Staff
330.1940 Diet Orders
330.1950 Meal Planning
330.1960 Therapeutic Diets (Repealed)
330.1970 Scheduling of Meals
330.1980 Menus and Food Records
330.1990 Food Preparation and Service
330.2000 Food Handling Sanitation
330.2010 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section

330.2210 Maintenance
330.2220 Housekeeping
330.2230 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section

330.2410 Furnishings
330.2420 Equipment and Supplies

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SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section

330.2610 Codes
330.2620 Water Supply
330.2630 Sewage Disposal
330.2640 Plumbing

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW SHELTERED CARE FACILITIES

Section

330.2810 Applicable Requirements (Repealed)
330.2820 Applicability of These Standards
330.2830 Submission of a Program Narrative
330.2840 New Constructions, Additions, Conversions, and Alterations
330.2850 Preparation and Submission of Drawings and Specifications
330.2860 First Stage Drawings
330.2870 Second Stage Drawings
330.2880 Architectural Drawings
330.2890 Structural Drawings
330.3000 Mechanical Drawings
330.3010 Electrical Drawings
330.3020 Additions to Existing Structures
330.3030 Specifications
330.3040 Building Codes
330.3050 Site
330.3060 General Building Requirements
330.3070 Administration
330.3080 Corridors
330.3090 Bath and Toilet Rooms
330.3100 Living, Dining, Activity Rooms
330.3110 Bedrooms
330.3120 Special Care Room
330.3130 Kitchen
330.3140 Laundry
330.3150 Housekeeping, Service, and Storage
330.3160 Plumbing
330.3170 Heating
330.3180 Electrical

SUBPART N: FIRE PROTECTION STANDARDS FOR NEW SHELTERED CARE FACILITIES

Section

330.3310 Applicable Requirements (Repealed)
330.3320 Applicability of These Standards
330.3330 Fire Protection

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330.3340 Fire Department Service and Water Supply
330.3350 General Building Requirements
330.3360 Exit Facilities and Subdivision of Floor Areas
330.3370 Stairways, Vertical Openings, and Doorways
330.3380 Corridors
330.3390 Exit Lights and Directional Signs
330.3400 Hazardous Areas and Combustible Storage
330.3410 Fire Alarm and Detection System
330.3420 Fire Extinguishers, Electric Wiring, and Miscellaneous
330.3430 Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING SHELTERED CARE FACILITIES

Section

330.3610 Site
330.3620 General Building Requirements
330.3630 Administration
330.3640 Corridors
330.3650 Bath and Toilet Rooms
330.3660 Living, Dining, and Activity Rooms
330.3670 Bedrooms
330.3680 Special Care Room
330.3690 Kitchen
330.3700 Laundry Room
330.3710 Housekeeping and Service Rooms and Storage Space
330.3720 Plumbing and Heating
330.3730 Electrical

SUBPART P: FIRE PROTECTION STANDARDS FOR EXISTING SHELTERED CARE FACILITIES

Section

330.3910 Fire Protection
330.3920 Fire Department Service and Water Supply
330.3930 Occupancy and Fire Areas
330.3940 Exit Facilities and Subdivision of Floor Areas
330.3950 Stairways, Vertical Openings, and Doorways
330.3960 Exit and Fire Escape Lights and Directional Signs
330.3970 Hazardous Areas and Combustible Storage
330.3980 Fire Alarm and Detection System
330.3990 Fire Extinguishers, Electric Wiring, and Miscellaneous
330.4000 Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

SUBPART Q: RESIDENT'S RIGHTS

Section

330.4210 General

19580, effective December 1, 1989; amended at 14 Ill. Reg. 14928, effective October 1, 1990; amended at 15 Ill. Reg. 516, effective January 1, 1991; amended at 16 Ill. Reg. 651, effective January 1, 1992; amended at 16 Ill. Reg. 14370, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2405, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8000, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15089, effective September 3, 1993; amended at 17 Ill. Reg. 16180, effective January 1, 1994; amended at 17 Ill. Reg. 19258, effective October 26, 1993; amended at 17 Ill. Reg. 19576, effective November 4, 1993; amended at 17 Ill. Reg. 21044, effective November 20, 1993; amended at 18 Ill. Reg. 1475, effective January 14, 1994; amended at 18 Ill. Reg. 15851, effective October 15, 1994; amended at 19 Ill. Reg. 11567, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 552, effective January 1, 1996, for a maximum of 150 days; emergency expired on May 29, 1996; amended at 20 Ill. Reg. 10125, effective July 15, 1996; amended at 20 Ill. Reg. 12160, effective September 10, 1996; amended at 22 Ill. Reg. 4078, effective February 13, 1998; amended at 22 Ill. Reg. 7203, effective April 15, 1998; amended at 22 Ill. Reg. 16594, effective September 18, 1998; amended at 23 Ill. Reg. 1085, effective January 15, 1999; amended at 23 Ill. Reg. 8064, effective July 15, 1999; amended at 24 Ill. Reg. 17304, effective November 1, 2000; amended at 25 Ill. Reg. 4901, effective April 1, 2001; amended at 26 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 330.330 Definitions

The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

Abuse - any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility. (Section 1-103 of the Act)

Abuse means:

Physical abuse refers to the infliction of injury on a resident that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to residents or within their hearing or seeing distance, regardless

330.4220 Medical and Personal Care Program
330.4230 Restraints
330.4240 Abuse and Neglect
330.4250 Communication and Visitation
330.4260 Resident's Funds
330.4270 Residents' Advisory Council
330.4280 Contract With Facility
330.4290 Private Right of Action
330.4300 Transfer or Discharge
330.4310 Complaint Procedures
330.4320 Confidentiality
330.4330 Facility Implementation

SUBPART R: DAY CARE PROGRAMS

Section
330.4510 Day Care In Long-Term Care Facilities

APPENDIX A Interpretation, Components, and Illustrative Services for Sheltered Care Facilities (Repealed)

APPENDIX B Classification of Distinct Part of a Facility For Different Levels of Service (Repealed)

APPENDIX C Forms for Day Care in Long-Term Care Facilities

APPENDIX D Criteria for Activity Directors Who Need Only Minimal Consultation

APPENDIX E Guidelines for the Use of Various Drugs

TABLE A Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 807, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 933, effective July 28, 1980; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14547, effective November 8, 1982; amended at 6 Ill. Reg. 14681, effective November 15, 1982; amended at 7 Ill. Reg. 1963, effective January 28, 1983; amended at 7 Ill. Reg. 6973, effective May 17, 1983; amended at 7 Ill. Reg. 15825, effective November 15, 1983; amended at 8 Ill. Reg. 15596, effective August 15, 1984; amended at 8 Ill. Reg. 15941, effective August 17, 1984; codified at 8 Ill. Reg. 19790; amended at 8 Ill. Reg. 24241, effective November 28, 1984; amended at 8 Ill. Reg. 24696, effective December 7, 1984; amended at 9 Ill. Reg. 2952, effective February 25, 1985; amended at 9 Ill. Reg. 10974, effective July 1, 1985; amended at 11 Ill. Reg. 16879, effective October 1, 1987; amended at 12 Ill. Reg. 1017, effective December 24, 1987; amended at 12 Ill. Reg. 16870, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18939, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6562, effective April 17, 1989; amended at 13 Ill. Reg.

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of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual Assault.

Access - the right to:

Enter any facility;

Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;

Inspect the clinical and other records of a resident with the express written consent of the resident;

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)

Act - as used in this Part, the Nursing Home Care Act [210 ILCS 45].

Activity Program - a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior - the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Adaptive Equipment - a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 330.1145 as a physical restraint.

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Addition - any construction attached to the original building which increases the area or cubic content of the building.

Adequate - enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning - a notice to a facility issued by the Department under Section 330.277 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a type A or type B violation.

Administrator - the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate - a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Affiliate - means:

With respect to a partnership, each partner thereof.

With respect to a corporation, each officer, director and stockholder thereof.

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)

Aide or Orderly - any person providing direct personal care, training or habilitation services to residents.

Alteration - any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident - a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

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Applicant - any person making application for a license. (Section 1-107 of the Act)

Appropriate - term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment - the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

Audiologist - a person who is licensed as an audiologist under the Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]. ~~certified or is eligible for a certificate of clinical competence in audiology granted by the American Speech and Hearing Association under its requirements in effect on the publication of this provision or meets the educational requirements for certification, and is in the process of accumulating the supervised experience required for certification.~~

Autism - a syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.

Autoclave - an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel - all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement - when used in this Part, means any story or floor level below the main or street floor. Where due to grade difference, there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.

Behavior Modification - treatment to be used to establish or change behavior patterns.

Cerebral Palsy - a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders,

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seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX - the issuance of a document by the Department to the Department of Health and Human Services or the Department of Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse - a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

~~Chemical Restraint - any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness.~~ (Section 2-106 of the Act)

Child Care/Habilitation Aide - any person who provides nursing, personal or rehabilitative care to residents of licensed Long-Term Care Facilities for Persons Under 22 Years of Age, regardless of title, and who is not otherwise licensed, certified or registered to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.

Community Alternatives - service programs in the community provided as an alternative to institutionalization.

Continuing Care Contract - a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract - a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience - the use of any restraint by the facility to control resident behavior or maintain a resident, which is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 330.1145 of this Part.

Corporal Punishment - painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident - failure to provide a resident with the care and supervision he requires; or, the

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infliction of mental or physical abuse.

Dentist - any person licensed by the State of Illinois to practice dentistry, includes persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].

Department - as used in this Part means the Illinois Department of Public Health.

Developmental Disabilities (DD) Aide - any person who provides nursing, personal or rehabilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render medical care. Other titles often used to refer to DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Developmental Disability - means a severe, chronic disability of a person which:

is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

is manifested before the person attains age 22;

is likely to continue indefinitely;

results in substantial functional limitations in 3 or more of the following areas of major life activity:

self-care,

receptive and expressive language,

learning,

mobility,

self-direction,

capacity for independent living, and

economic self-sufficiency; and

reflects the person's need for combination and sequence of

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special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801 of the Act)

Dietetic Service Supervisor - a person who:

is a dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in the second, third or fourth paragraph ~~paragraphs (2)-(4)~~ of this definition.

Dietitian - a person who is a licensed dietitian as provided in the Dietetic and Nutrition Services Practice Act [225 ILCS 30].

Direct Supervision - work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director - the Director of Public Health or designee. (Section 1-110 of the Act)

Director of Nursing Service - the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge - the full release of any resident from a facility. (Section 1-111 of the Act)

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Discipline - any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part - an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency - a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Epilepsy - a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Existing Long-Term Care Facility - any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility, Intermediate Care - a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled - when used in this Part is a facility of three or more persons, or distinct part thereof, serving residents of which more than 50 percent are developmentally disabled.

Facility or Long-Term Care Facility - a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code [55 ILCS 5] or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care

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facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 USCA 1395 et seq. and 1936 et seq.). It also includes homes, institutions, or other places operated by or under the authority of Illinois Department of Veterans' Affairs. A "facility" may consist of more than one building as long as the buildings are on the same tract, or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois other than homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities thereof, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];

Any "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]; or

Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65]; or

Any supportive living facility in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5/5-5.01a];--(Section-1-113-of the-Act)

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Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act [210 ILCS 9]; or

An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act [210 ILCS 3]. (Section 1-113 of the Act)

Facility, Long-Term Care, for Residents Under 22 Years of Age - when used in this Part is synonymous with a long-term care facility for residents under 22 years of age, which facility provides total rehabilitative health care to residents who require specialized treatment, training and continuous nursing care because of medical or developmental disabilities.

Facility, Sheltered Care - when used in this Part is synonymous with a sheltered care facility, which facility provides maintenance and personal care.

Facility, Skilled Nursing - when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides a skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility - having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full time - on duty a minimum of 36 hours, four days per week.

Goal - an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body - the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian - a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [755 ILCS 5]. (Section 1-114 of the Act)

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Habilitation - an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health information management consultant - a person who is certified as a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT) by the American Health Information Management Association; or is a graduate of a school of health information management that is accredited jointly by the American Medical Association and the American Health Information Management Association.

Health Services Supervisor - (Director of Nursing Service) the full-time Registered Nurse, ~~or--Bicensed--Practical--Nurse~~, who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged - any facility which is operated: by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under the General Not For Profit Corporation Act of 1986 [805 ILCS 105]; or by a county pursuant to Division 5-22 of the Counties Code [55 ILCS 5]; or pursuant to a trust or endowment established for nonprofit, charitable purposes; and which provides maintenance, personal care, nursing or sheltered care to three or more residents, 90 percent of whom are 60 or more years of age.

Hospitalization - the care and treatment of a person in a hospital as an inpatient in-patient.

Individual Education Program (IEP) - a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) - a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Interdisciplinary Team - a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) at least one member of the team shall be a Qualified Mental Retardation

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Professional. The Interdisciplinary Team includes the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and caregivers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator - a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse - a person with a valid Illinois license to practice as a practical nurse.

Licensee - the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract - a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance - food, shelter, and laundry services. (Section 1-116 of the Act)

Maladaptive Behavior - impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

Medical-Record-Practitioner--a-person--who--is--eligible--for certification--as--a--registered--record--administrator--(RRA)--or--an accredited--record--technician--(ART)--by--the--American-Medical-Record Association--under--its--requirements--or--is--a--graduate--of--a--school--of medical--record--science--that--is--accredited--jointly--by--the--American Medical-Association--and--the--American-Medical-Record-Association.

Mentally Retarded and Mental Retardation - subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property - using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

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Mobile Nonambulatory - unable to walk independently or without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.

Mobile Resident - any resident who is able to move about either independently or with the aid of an assistive device such as a walker, crutches, a wheelchair, or a wheeled platform.

Monitor - a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

Neglect - a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or medical condition. This shall include any allegation where:

the alleged failure causing injury or deterioration is ongoing or repetitious; or

a resident required medical treatment as a result of the alleged failure; or

the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New Long-Term Care Facility - any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization - the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

Nurse - a registered nurse or a licensed practical nurse as defined in the Illinois Nursing and Advanced Practice Nursing Act of 1987 [225

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ILCS 65]. (Section 1-118 of the Act)

Nursing Assistant - any person who provides nursing care or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care - a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit - a physically identifiable designated area of a facility consisting of all the beds within the designated area, but having no more than 75 beds, none of which are more than 120 feet from the nurse's station.

Objective - an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) - a person who is registered as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75].

Occupational Therapy Assistant - a person who is registered as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator - the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury - occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight - general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

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Owner - the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person - any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

Personal Care - assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person, whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered - a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].

Physical Restraint - any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

Physical Therapist Assistant - a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist - a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

Physician - any person licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].

Probationary License - an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

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Reputable Moral Character - having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

Resident - person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director - the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

Resident's Representative - a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

Restorative Care - a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Room - a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Sanitization - the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory - same as adequate.

Seclusion - the retention of a resident alone in a room with a door that the resident cannot open.

Self Preservation - the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

Sheltered Care - maintenance and personal care. (Section 1-124 of the Act)

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Psychiatrist - a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist - a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Mental Retardation Professional - a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

Be a physician as defined in this Section.

Be a registered nurse as defined in this Section.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational specialty area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

Qualified Professional - a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified by the State of Illinois, if required.

Reasonable Visiting Hours - any time between the hours of 10 A.M. and 8 P.M. daily. (Section 1-121 of the Act)

Registered Nurse - a person with a valid Illinois license to practice as a registered professional nurse under the ~~Illinois~~ Nursing and Advanced Practice Nursing Act of 1987.

Repeat Violation - For purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

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Social Worker, - a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal - the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization - the act or process of destroying completely all forms of microbial life, including viruses.

Stockholder of a Corporation - any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation. (Section 1-125 of the Act)

Story - when used in this Part means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

Student Intern - means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:

an academic credit requirement in a high school or undergraduate institution, or

immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Compliance - meeting requirements except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 330.140(a)(3) and 330.150(a)(3).

Substantial Failure - the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 330.165(b)(1).

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Sufficient - same as adequate.

Supervision - authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

Therapeutic Recreation Specialist - a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out - removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

Title XVIII - Title XVIII of the Federal Social Security Act as now or hereafter amended. (Section 1-126 of the Act)

Title XIX - Title XIX of the Federal Social Security Act as now or hereafter amended. (Section 1-127 of the Act)

Transfer - a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

Type A Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

Type B Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Unit - an entire physically identifiable residence area having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective rules governing the approved levels of service.

Universal Progress Notes - a common record with periodic narrative documentation by all persons involved in resident care.

Valid License - a license which is unsuspended, unrevoked and unexpired.

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(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART C: POLICIES

Section 330.760 Personnel Policies

a) Each facility shall develop and maintain written personnel policies that ~~which-policies~~ are followed in the operation of the facility. These policies shall include, at a minimum, each of the requirements of this Section.

b) Employee Records

1) Employment application forms shall be completed for ~~on~~ each employee and kept on file in the facility. Completed forms ~~they~~ shall be available to Department personnel for review.

2) ~~Individual personnel files for each employee~~ ~~these--forms~~ shall contain date of employment; date of birth; home address; educational background; and past experience, including types of employment, where previously employed, type-of position employed to fill in this facility, and (if no longer employed in this facility) last day employed (if no longer in present facility) and reasons for leaving.

3) Individual personnel files for each employee shall also contain health records, including the initial health evaluation and ~~required-under-Section-330-765(a)~~ the results of the tuberculin skin test required under Section 330.765(e), and any other pertinent health records.

4) Individual personnel records for each employee shall also contain records of evaluation of performance.

c) Prior to employing any individual in a position that requires a State license, the facility shall contact the Illinois Department of Professional Regulation to verify that the individual's license is authorized and in good standing. A copy of the license shall be placed in the individual's personnel file.

d) The facility shall check the status of all applicants with the Nurse Aide Registry prior to hiring.

ee) All personnel shall have either training or experience, or both, in the job assigned to them. (B)

fd) There shall be an ongoing planned inservice program embracing orientation to the facility and its policies, skill training and ongoing education ~~carried-out~~ to enable all personnel to perform their duties effectively. Written records of program content and personnel attending shall be kept. (B)

ge) Employees shall only be assigned duties that ~~which~~ are directly related to their job functions, as identified in their job descriptions. Exceptions may be made in emergencies. (B)

hf) Personnel policies shall include a plan to provide personnel coverage for regular staff when they are absent. (B)

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ig) Every facility shall have a current, dated weekly employee time schedule posted ~~in-a-convenient-place~~ where employees may refer to it. This schedule shall contain employee's name, job title, shift assignment, hours of work, and days off. The schedule shall be kept on file in the facility for one year after the week for which the schedule was used.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART D: PERSONNEL

Section 330.920 Consultation Services

a) The facility shall designate a staff member to provide social services to residents. If the staff member designated to provide social services is not a ~~registered-or-certified~~ social worker, the facility shall have an effective arrangement with a ~~registered-or-certified~~ social worker to provide social service consultation.

b) The facility shall have a written agreement for activity program consultation if required under Section 330.1310(c).

c) ~~The facility shall make arrangements for dietary consultation--as-set forth-in-Section-330-1360-(d)-and-(e)--(B)~~

cd) If the facility does not employ have a ~~nurse-currently-registered-to-practice-as--a~~ registered professional nurse, the facility shall ~~arrange for in-Illinois, arrangements-shall-be-made-for consultation from a registered nurse person-so-qualified.~~ The consultant ~~she~~ shall assist with ~~developing the--development--of~~ policies, methods and procedures relating to the medical program, medication, in-service on these medications and in-service training ~~on~~ and all aspects of personal care. (B)

(Source: Amended at 26 Ill. Reg. _____, effective _____)

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The Department anticipates adoption of this rulemaking approximately six to nine months after publication of this notice in the *Illinois Register*.

- 6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No
- 7) Does this Rulemaking Contain an Automatic Repeal Date? No
- 8) Does this Rulemaking Contain Any Incorporations By Reference? No
- 9) Are there any other Proposed Amendments Pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
300.663	Amendments	25 Ill. Reg. 5888
300.695	New Section	25 Ill. Reg. 5888
300.3410	Repeal	25 Ill. Reg. 4480
300.3420	Repeal	25 Ill. Reg. 4480
300.3430	Repeal	25 Ill. Reg. 4480
300.3440	Repeal	25 Ill. Reg. 4480
300.3450	Repeal	25 Ill. Reg. 4480
300.3460	Repeal	25 Ill. Reg. 4480
300.3470	Repeal	25 Ill. Reg. 4480
300.3480	Repeal	25 Ill. Reg. 4480
300.3490	Repeal	25 Ill. Reg. 4480
300.3500	Repeal	25 Ill. Reg. 4480
300.3510	Repeal	25 Ill. Reg. 4480
300.3520	Repeal	25 Ill. Reg. 4480
300.3530	Repeal	25 Ill. Reg. 4480
300.3540	Repeal	25 Ill. Reg. 4480
300.3550	Repeal	25 Ill. Reg. 4480
300.3560	Repeal	25 Ill. Reg. 4480
300.3570	Repeal	25 Ill. Reg. 4480
300.3580	Repeal	25 Ill. Reg. 4480
300.3590	Repeal	25 Ill. Reg. 4480
300.3600	Repeal	25 Ill. Reg. 4480
300.3610	Repeal	25 Ill. Reg. 4480
300.3620	Repeal	25 Ill. Reg. 4480
300.3630	Repeal	25 Ill. Reg. 4480
300.4000	New	25 Ill. Reg. 4480
300.4010	New	25 Ill. Reg. 4480
300.4020	New	25 Ill. Reg. 4480
300.4030	New	25 Ill. Reg. 4480
300.4040	New	25 Ill. Reg. 4480
300.4050	New	25 Ill. Reg. 4480
300.4060	New	25 Ill. Reg. 4480
300.4070	New	25 Ill. Reg. 4480
300.4080	New	25 Ill. Reg. 4480
300.4090	New	25 Ill. Reg. 4480
300.6000	New	25 Ill. Reg. 4480

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- 1) Heading of the Part: Skilled Nursing and Intermediate Care Facilities Code

- 2) Code Citation: 77 Ill. Adm. Code 300

- 3) Section Numbers: Proposed Action:
300.330 Amendment
300.650 Amendment
300.830 Amendment
300.1220 Amendment
300.1860 Amendment

- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

- 5) A Complete Description of the Subjects and Issues Involved: Part 300 establishes licensing requirements for skilled nursing and intermediate care facilities.

Section 300.330 (Definitions) is being amended to update definitions for "Audiologist" and "Facility" and to replace the term "Medical Record Practitioner" with "Health information management consultant".

Section 300.650 (Personnel Policies) is being amended to add two requirements for personnel policies. Prior to employing any individual in a position that requires a State license, the facility will be required to contact the Illinois Department of Professional Regulation to verify that the individual's license is authorized and in good standing. The facility will also be required to check the status of all applicants with the Nurse Aide Registry prior to hiring.

Section 300.830 (Consultation Services) is being amended to delete consultation requirements for health services supervisors who are not registered nurses, to reflect changes in dietary regulations, and to delete unnecessary language.

Section 300.1220 (Nursing Services) is being amended to require that the director of nursing (DON) services be a registered nurse. The change will achieve consistency with the requirements of the Nursing and Advanced Practice Nursing Act, which prohibits a licensed practical nurse (LPN) from being a DON.

Section 300.1860 (Staff Responsibility for Medical Records) to change the terminology for medical records staff, based on correspondence from the Illinois Health Information Management Association.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

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300.6005	New	25 Ill. Reg. 4480
300.6010	New	25 Ill. Reg. 4480
300.6020	New	25 Ill. Reg. 4480
300.6030	New	25 Ill. Reg. 4480
300.6040	New	25 Ill. Reg. 4480
300.6045	New	25 Ill. Reg. 4480
300.6047	New	25 Ill. Reg. 4480
300.6049	New	25 Ill. Reg. 4480
300.6050	New	25 Ill. Reg. 4480
300.6060	New	25 Ill. Reg. 4480
300.6070	New	25 Ill. Reg. 4480
300.6080	New	25 Ill. Reg. 4480
300.6090	New	25 Ill. Reg. 4480
300.6095	New	25 Ill. Reg. 4480

APPENDIX G

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Peggy Snyder
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Peggy Snyder at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate its status as such, in writing, in its comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Skilled nursing and intermediate care facilities

B) Reporting, Bookkeeping or Other Procedures Required for Compliance:
None

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C) Types of Professional Skills Necessary for Compliance: Nursing, health information management

13) Regulatory Agenda on which this rulemaking was summarized: July 2001

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 300

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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 1066, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 311, effective July 28, 1980; emergency amendment at 6 Ill. Reg. 3229, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6454, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 11631, effective September 14, 1982; amended at 6 Ill. Reg. 14550 and 14554, effective November 8, 1982; amended at 6 Ill. Reg. 14684, effective November 15, 1982; amended at 7 Ill. Reg. 285, effective December 22, 1982; amended at 7 Ill. Reg. 1972,

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levels of long-term care. They are defined as follows:

Abuse - any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility. (Section 1-103 of the Act)

Abuse means:

Physical abuse refers to the infliction of injury on a resident that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to residents or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual assault.

Access - the right to:

Enter any facility;

Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;

Inspect the clinical and other records of a resident with the express written consent of the resident;

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)

Act - as used in this Part, the Nursing Home Care Act [210 ILCS 45].

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effective January 28, 1983; amended at 7 Ill. Reg. 8579, effective July 11, 1983; amended at 7 Ill. Reg. 15831, effective November 10, 1983; amended at 7 Ill. Reg. 15864, effective November 15, 1983; amended at 7 Ill. Reg. 16992, effective December 14, 1983; amended at 8 Ill. Reg. 15599, 15603, and 15606, effective August 15, 1984; amended at 8 Ill. Reg. 15947, effective August 17, 1984; amended at 8 Ill. Reg. 16999, effective September 5, 1984; codified at 8 Ill. Reg. 19766; amended at 8 Ill. Reg. 24186, effective November 29, 1984; amended at 8 Ill. Reg. 24668, effective December 7, 1984; amended at 8 Ill. Reg. 25102, effective December 14, 1984; amended at 9 Ill. Reg. 132, effective December 26, 1984; amended at 9 Ill. Reg. 4087, effective March 15, 1985; amended at 9 Ill. Reg. 11049, effective July 1, 1985; amended at 11 Ill. Reg. 16927, effective October 1, 1987; amended at 12 Ill. Reg. 1052, effective December 24, 1987; amended at 12 Ill. Reg. 16811, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18477, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 4684, effective March 24, 1989; amended at 13 Ill. Reg. 5134, effective April 1, 1989; amended at 13 Ill. Reg. 20089, effective December 1, 1989; amended at 14 Ill. Reg. 14950, effective October 1, 1990; amended at 15 Ill. Reg. 554, effective January 1, 1991; amended at 16 Ill. Reg. 681, effective January 1, 1992; amended at 16 Ill. Reg. 5977, effective March 27, 1992; amended at 16 Ill. Reg. 17089, effective November 3, 1992; emergency amendment at 17 Ill. Reg. 2420, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8026, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15106, effective September 3, 1993; amended at 17 Ill. Reg. 16194, effective January 1, 1994; amended at 17 Ill. Reg. 19279, effective October 26, 1993; amended at 17 Ill. Reg. 19604, effective November 4, 1993; amended at 17 Ill. Reg. 21058, effective November 20, 1993; amended at 18 Ill. Reg. 1491, effective January 14, 1994; amended at 18 Ill. Reg. 15868, effective October 15, 1994; amended at 19 Ill. Reg. 11600, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 567, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10142, effective July 15, 1996; amended at 20 Ill. Reg. 12208, effective September 10, 1996; amended at 21 Ill. Reg. 15000, effective November 15, 1997; amended at 22 Ill. Reg. 4094, effective February 13, 1998; amended at 22 Ill. Reg. 7218, effective April 15, 1998; amended at 22 Ill. Reg. 16609, effective September 18, 1998; amended at 23 Ill. Reg. 1103, effective January 15, 1999; amended at 23 Ill. Reg. 8106, effective July 15, 1999; amended at 24 Ill. Reg. 17330, effective November 1, 2000; amended at 25 Ill. Reg. 4911, effective April 1, 2001; amended at 26 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 300.330 Definitions

The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department to license various

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Activity Program - a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior - the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Adaptive Equipment - a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 300.680 of this Part as a physical restraint.

Addition - any construction attached to the original building which increases the area or cubic content of the building.

Adequate - enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning - a notice to a facility issued by the Department under Section 300.277 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a type A or type B violation.

Administrator - the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate - a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Affiliate - means:

With respect to a partnership, each partner thereof.

With respect to a corporation, each officer, director and stockholder thereof.

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With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)

Aide or Orderly - any person providing direct personal care, training or habilitation services to residents.

Alteration - any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident - a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

Applicant - any person making application for a license. (Section 1-107 of the Act)

Appropriate - term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment - the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

~~Audiologist - a person who is licensed as an audiologist under the Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]. certified or is eligible for a certificate of clinical competence in audiology granted by the American Speech and Hearing Association under its requirements in effect on the publication of this provision or meets the educational requirements for certification and is in the process of accumulating the supervised experience required for certification.~~

Autism - a syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.

Autoclave - an apparatus for sterilizing by superheated steam under pressure.

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Auxiliary Personnel - all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement - when used in this Part, means any story or floor level below the main or street floor. Where due to grade difference, there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.

Behavior Modification - treatment to be used to establish or change behavior patterns.

Cerebral Palsy - a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX - the issuance of a document by the Department to the Department of Health and Human Services or the Department of Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse - a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical Restraint - Any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act)

Child Care/Habilitation Aide - any person who provides nursing, personal or rehabilitative care to residents of licensed Long-Term Care Facilities for Persons Under 22 Years of Age, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Professional Regulation to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.

Community Alternatives - service programs in the community provided as an alternative to institutionalization.

Continuing Care Contract - a contract through which a facility agrees to supplement all forms of financial support for a resident throughout

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the remainder of the resident's life.

Contract - a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience - the use of any restraint by the facility to control resident behavior or maintain a resident, which is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 300.680 of this Part.

Corporal Punishment - painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident - failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

Dentist - any person licensed to practice dentistry, including persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].

Department - as used in this Part means the Illinois Department of Public Health.

Developmental Disabilities (DD) Aide - any person who provides nursing, personal or rehabilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render medical care. Other titles often used to refer to DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Developmental Disability - means a severe, chronic disability of a person which:

is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

is manifested before the person attains age 22;

is likely to continue indefinitely;

results in substantial functional limitations in 3 or more of the

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following areas of major life activity:

self-care,
receptive and expressive language,
learning,
mobility,
self-direction,
capacity for independent living, and
economic self-sufficiency; and

reflects the person's need for combination and sequence of special, interdisciplinary or generic care treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801.1 of the Act)

Dietetic Service Supervisor - a person who:

is a dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in the second, third or fourth paragraph ~~paragraphs (2) through (4)~~ of this definition.

Dietitian - a person who is a licensed dietitian as provided in the

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Dietetic and Nutrition Services Practice Act [225 ILCS 30].

Direct Supervision - work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director - the Director of Public Health or designee. (Section 1-110 of the Act)

Director of Nursing Service - the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge - the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline - any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part - an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency - a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Epilepsy - a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Existing Long-Term Care Facility - any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility, Intermediate Care - a facility which provides basic nursing care and other restorative services under periodic medical direction.

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Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled - when used in this Part, is a facility of three or more persons, or distinct part thereof, serving residents of which more than 50 percent are developmentally disabled.

Facility or Long-Term Care Facility - a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code [55 ILCS 5], or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 USCA 1395 et seq. and 1936 et seq.). It also includes homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs. A "facility" may consist of more than one building as long as the buildings are on the same tract, or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois other than homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities thereof, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];

Any "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons

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who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135];

Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65]; or

Any supportive living facility in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5/5.01a];--~~Section-1-113-of the-Act~~

Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act [210 ILCS 9]; or

An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act [210 ILCS 3]. (Section 1-113 of the Act)

Facility, Long-Term Care, for Residents Under 22 Years of Age - when used in this Part is synonymous with a long-term care facility for residents under 22 years of age, which facility provides total rehabilitative health care to residents who require specialized treatment, training and continuous nursing care because of medical or developmental disabilities.

Facility, Sheltered Care - when used in this Part is synonymous with a sheltered care facility, which facility provides maintenance and personal care.

Facility, Skilled Nursing - when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post-acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility - having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and

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utilities for at least a two-month period of time.

Full-time - means on duty a minimum of 36 hours, four days per week.

Goal - an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body - the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian - a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [755 ILCS 5]. (Section 1-114 of the Act)

Habilitation - an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health information management consultant - a person who is certified as a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT) by the American Health Information Management Association; or is a graduate of a school of health information management that is accredited jointly by the American Medical Association and the American Health Information Management Association.

Health Services Supervisor - (Director of Nursing Service) the full-time Registered Nurse--or--Licensed--Practical--Nurse, who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged - any facility which is operated by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under, the General Not For Profit Corporation Act of 1986 [805 ILCS 105]; or, by a county pursuant to Division 5-22 of the Counties Code [55 ILCS 5]; or, pursuant to a trust or endowment established for nonprofit, charitable purposes; and which provides maintenance, personal care, nursing or sheltered care to three or more residents, ninety percent of whom are 60 or more years of age.

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Hospitalization - the care and treatment of a person in a hospital as an inpatient in-patient.

Individual Education Program (IEP) - a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) - a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Interdisciplinary Team - a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) at least one member of the team shall be a Qualified Mental Retardation Professional. The Interdisciplinary Team includes the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and caregivers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator - a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse - a person with a valid Illinois license to practice as a practical nurse.

Licensee - the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract - a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance - food, shelter, and laundry services. (Section 1-116 of the Act)

Maladaptive Behavior - impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning

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ability or inadequate social adjustment.

~~Medical--Record--Practitioner--a--person--who--is--eligible--for
certification--as--a--registered--record--administrator--(RRA)--or--an
accredited--record--technician--(ART)--by--the--American--Medical--Record
Association--under--its--requirements--or--is--a--graduate--of--a--school--of
medical--record--science--that--is--accredited--jointly--by--the--American
Medical--Association--and--the--American--Medical--Record--Association.~~

Mentally Retarded and Mental Retardation - subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property - using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory - unable to walk independently or without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.

Mobile Resident - any resident who is able to move about either independently or with the aid of an assistive device such as a walker, crutches, a wheelchair, or a wheeled platform.

Monitor - a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

Neglect - a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. This shall include any allegation where:

the alleged failure causing injury or deterioration is ongoing or repetitious; or

a resident required medical treatment as a result of the alleged failure; or

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the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New Long-Term Care Facility - any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization - the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

Nurse - a registered nurse or a licensed practical nurse as defined in the Illinois Nursing and Advanced Practice Nursing Act of 1987 [225 ILCS 65]. (Section 1-118 of the Act)

Nursing Assistant - any person who provides nursing care or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care - a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit - a physically identifiable designated area of a facility consisting of all the beds within the designated area, but having no more than 75 beds, none of which are more than 120 feet from the nurse's station.

Objective - an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) - a person who is registered as an occupational therapist under the Illinois Occupational Therapy

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Practice Act [225 ILCS 75].

Occupational Therapy Assistant - a person who is registered as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator - the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury - occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight - general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

Owner - the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person - any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

Personal Care - assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person, whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered - a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].

Physical Restraint - any manual method or physical or mechanical

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device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

Physical Therapist Assistant - a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist - a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

Physician - any person licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].

Probationary License - an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

Psychiatrist - a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist - a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Mental Retardation Professional - a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

Be a physician as defined in this Section.

Be a registered nurse as defined in this Section.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational specialty area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

Qualified Professional - a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the

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profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified by the State of Illinois, if required.

Reasonable Visiting Hours - any time between the hours of 10 a.m. and 8 p.m. daily. (Section 1-121 of the Act)

Registered Nurse - a person with a valid license to practice as a registered professional nurse under the ~~Illinois~~ Nursing and Advanced Practice Nursing Act of 1987.

Repeat Violation - For purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

Reputable Moral Character - having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

Resident - person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director - the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

Resident's Representative - a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

Restorative Care - a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

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Room - a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Sanitization - the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory - same as adequate.

Seclusion - the retention of a resident alone in a room with a door that the resident cannot open.

Self Preservation - the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

Sheltered Care - maintenance and personal care. (Section 1-124 of the Act)

Social Worker - a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal - the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization - the act or process of destroying completely all forms of microbial life, including viruses.

Stockholder of a Corporation - any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation. (Section 1-125 of the Act)

Story - when used in this Part, means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

Student Intern - means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:

an academic credit requirement in a high school or undergraduate institution, or

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immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Compliance - meeting requirements except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 300.140(a)(3) and 300.150(a)(3).

Substantial Failure - the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 300.165(b)(1).

Sufficient - same as adequate.

Supervision - authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

Therapeutic Recreation Specialist - a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out - removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

Title XVIII - Title XVIII of the Federal Social Security Act as now or hereafter amended. (Section 1-126 of the Act)

Title XIX - Title XIX of the Federal Social Security Act as now or hereafter amended. (Section 1-127 of the Act)

Transfer - a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

Type A Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the

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operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

Type B Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Unit - an entire physically identifiable residence area having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective rules governing the approved levels of service.

Universal Progress Notes - a common record with periodic narrative documentation by all persons involved in resident care.

Valid License - a license which is unsuspended, unrevoked and unexpired.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART C: POLICIES

Section 300.650 Personnel Policies

a) Each facility shall develop and maintain written personnel policies that ~~which~~ are followed in the operation of the facility. These policies shall include, at a minimum, each of the requirements of this Section.

b) Employee Records

1) Employment application forms shall be completed ~~for~~ on each employee and kept on file in the facility. Completed forms they shall be available to Department personnel for review.

2) Individual personnel files for each employee shall contain date of employment, ~~date of birth,~~ home address, ~~educational background,~~ ~~and past experience,~~ including types of employment, where previously employed, ~~type-of position employed to fill in this facility,~~ and ~~(if no longer employed in this facility)~~ last day employed ~~(if no longer in present facility)~~ and reasons for leaving.

3) Individual personnel files for each employee shall also contain health records, including the initial health evaluation and ~~required under Section 300-655(a),~~ the results of the tuberculin skin test required under Section 300.655(b), and any other pertinent health records.

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4) Individual personnel records for each employee shall also contain records of evaluation of performance.

c) Prior to employing any individual in a position that requires a State license, the facility shall contact the Illinois Department of Professional Regulation to verify that the individual's license is authorized and in good standing. A copy of the license shall be placed in the individual's personnel file.

d) The facility shall check the status of all applicants with the Nurse Aide Registry prior to hiring.

ee) All personnel shall have either training or experience, or both, in the job assigned to them. ~~(B)~~

fa) Orientation and In-Service Training

1) All new employees, including student interns, shall complete an orientation program covering, at a minimum, the following: general facility and resident orientation; job orientation, emphasizing allowable duties of the new employee; resident safety, including fire and disaster, emergency care and basic resident safety; and, understanding and communicating with the type of residents being cared for in the facility. ~~such as geriatric, pediatric, developmentally disabled.~~ In addition, all new direct care staff, including student interns, shall complete an orientation program covering the facility's policies and procedures for resident care services before being assigned to provide direct care to residents. This orientation program shall include information on ~~material~~ regarding the prevention and treatment of decubitus ulcers and the importance of nutrition in general health care.

2) All employees, except student interns shall attend in-service training programs pertaining to their assigned duties at least annually. These in-service training programs shall include ~~material~~ regarding the facility's policies, skill training and ongoing education ~~carried-out~~ to enable all personnel to perform their duties effectively. The in-service training sessions regarding personal care, nursing and restorative services shall include information on the ~~material~~ concerning prevention and treatment of decubitus ulcers ~~(commonly-known-as-bed-sores)~~. In-service training concerning dietary services shall include information on the ~~material~~ concerning effects of diet in treatment of various diseases or medical conditions and the importance of laboratory test results in determining therapeutic diets. Written records of program content for each session and of personnel attending each session shall be kept. ~~(B)~~

ge) Employees shall be assigned duties ~~that~~ which are directly related to their functions, as identified in their job descriptions. Exceptions may be made in emergencies.

hf) Personnel policies shall include a plan to provide personnel coverage for regular staff when they are absent. ~~(A)~~ ~~(B)~~

ig) Every facility shall have a current dated weekly employee time

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schedule posted in ~~a convenient place~~ where employees may refer to it. This schedule shall contain the employee's name, job title, shift assignment, hours of work, and days off. The schedule shall be kept on file in the facility for one year after the week for which the schedule was used.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART D: PERSONNEL

Section 300.830 Consultation Services

a) The facility shall have all arrangements for each consultant's services in a written agreement setting forth the services to be provided. These agreements shall be updated annually.

b) If the staff member designated to provide social services is not a registered or certified social worker, the facility shall have an effective arrangement with a registered or certified social worker to provide social service consultation. ~~(f)~~ Skilled nursing facilities must provide a qualified social worker to meet this requirement.

2) ~~A qualified social worker is one who meets the definition in Section 300.330.~~

c) The facility shall have a written agreement for activity program consultation if required under Section 300.1410(c).

d) ~~If the supervisor of health services is not a nurse currently registered to practice as a registered professional nurse in Illinois, arrangements shall be made for consultation from a person so qualified. She shall assist with the development of policies, methods, and procedures relating to the medical program, medication service, and these medications and in-service training and all aspects of personal and nursing care. She shall give this consultation in the facility not less than four hours each week.~~

de) ~~Specific if a facility provides other specific restorative services (physical therapy, occupational therapy, etc.) provided by the facility they shall include consultation as set forth in Section 300.1420(a).~~

ef) The facility shall arrange ~~make~~ arrangements for an advisory physician or medical advisory committee as set forth in Section 300.1010 or 300.1010(a)(2). ~~(B)~~

fg) The facility shall arrange ~~make~~ arrangements for an advisory dentist and dental hygienist if desired, as set forth in Section 300.1050 and 300.1050(b).

gh) The facility shall arrange ~~make~~ arrangements for a consultant pharmacist as set forth in Section 300.1610 and 300.1610(e). ~~(B)~~

hi) Skilled Nursing Facilities shall arrange ~~make~~ arrangements for consultation from a health information management consultant ~~Registered--Medical--Records--Consultant~~ as set forth in Section

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300.1860+030.

- i) Skilled-Nursing Facilities shall arrange make--arrangements for a dietary consultant as set forth in Section 300.2010(b).

(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART F: NURSING AND PERSONAL CARE

Section 300.1220 Supervision of Nursing Services

- a) Each skilled--nursing facility shall have a director of nursing services (DON) who shall be a registered nurse. In-intermediate-care facilities--the-director-of-nursing--service--shall--be--a--registered nurse--(RN)--or--a--licensed-practical-nurse--(LPN):

1) This person shall have knowledge and training in nursing service administration and restorative/rehabilitative nursing. This person shall also have some knowledge and training in the care of the type of residents the facility cares for (e.g., geriatric, pediatric or psychiatric residents). This does not mean that the director of nursing must have completed a specific course or a specific number of hours of training in restorative/rehabilitative nursing unless this person in charge of the restorative/rehabilitative nursing program. (See Section 300.1210(a).)

2) This person shall be a full-time employee who is on duty a minimum of 36 hours, four days per week. At least 50 percent of this person's hours shall be regularly scheduled between 7 A.M. and 7 P.M.

A) A facility may, with written approval from the Department, have two registered nurses share the duties of this position if the facility is unable to obtain a full-time person. Such an arrangement will be approved only through written documentation that the facility was unable to obtain the full-time services of a qualified individual to fill this position. Such documentation shall include, but not be limited to: an advertisement that has appeared in a newspaper of general circulation in the area for at least three weeks; the names, addresses and phone numbers of all persons who applied for the position and the reasons why they were not acceptable or would not work full time; and information about the numbers and availability of licensed nurses in the area. The Department will grant approval only when such documentation indicates that there were no qualified applicants who were willing to accept the job on a full-time basis, and the pool of nurses available in the area cannot be expected to produce, in the near future, a qualified person who is willing to work full time.

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- B) If two persons are to share the position in an intermediate care facility, one shall be designated the DON. Both of these persons may be RNs, both may be LPNs, or one may be an RN and the other an LPN. In the latter case, the RN shall be designated as the DON and the LPN shall be designated as the assistant director of nursing service (ADON).

C) In a facility licensed wholly or in part as a skilled nursing facility, both of these persons must be RNs.

BB) In facilities with a capacity of fewer than 50 beds, this person may also provide direct patient care, and this person's time may be included in meeting the staff-to-resident ratio requirements.

3) In intermediate-care facilities, if the director of nursing is not a registered nurse, consultation shall be provided in the facility at least four hours each week from a registered nurse.

34) In skilled nursing facilities of 100 or more occupied beds, there shall be an assistant director of nursing (ADON) who is a registered nurse. This person shall also meet the qualifications specified in subsection (a)(1) of this Section for the director of nursing service.

45) In intermediate care facilities of 150 or more occupied beds, a licensed nurse shall be designated as the ADON. This person shall perform the duties of the DON when the DON is on vacation or extended sick leave. The assistant may provide direct patient care and be included in staff-to-resident ratio calculations.

56) The assistant shall be a full-time employee who is on duty a minimum of 36 hours, four days per week. The assistant may be assigned to work hours any time of the day or night.

67) The assistant shall assist the DON in carrying out his/her responsibilities.

78) If other duties interfere with the proper performance of the DON's or ADON's duties, another nurse shall be assigned to perform the duties of the DON or assistant for that period of time.

b) The DON shall supervise and oversee the nursing services of the facility, including:

1) Assigning and directing the activities of nursing service personnel.

2) Overseeing the comprehensive assessment of the residents' needs, which include medically defined conditions and medical functional status, sensory and physical impairments, nutritional status and requirements, psychosocial status, discharge potential, dental condition, activities potential, rehabilitation potential, cognitive status, and drug therapy.

3) Developing Planning an up-to-date resident care plan for each resident based on the resident's comprehensive assessment, individual needs and goals to be accomplished, physician's orders, and personal care and nursing needs. Personnel,

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representing other services such as nursing, activities, dietary, and such other modalities as are ordered by the physician, shall be involved in the preparation of the resident care plan. The plan shall be in writing and shall be reviewed and modified in keeping with the care needed as indicated by the resident's condition. The plan shall be reviewed at least every three months.

practitioner shall designate that employee as the person responsible for ensuring that the facility's medical records are completed, maintained and preserved in accordance with this Subpart.

- 2) Each skilled nursing facility that does not have a full-time or part-time health information management consultant practitioner shall designate an employee to be responsible for completing, maintaining and preserving the facility's medical records. This individual shall be trained by, and receive regular consultation from, a health information management consultant medical--records practitioner in order to meet the requirements of contained-in this Subpart.

- b) Each intermediate care facility that does not have a full-time or part-time health information management consultant medical--records practitioner shall designate an employee to be responsible for completing, maintaining and preserving the medical records in accordance with the requirements of contained-in this Subpart.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

- 8) Supervising and overseeing planning in-service education, embracing orientation, skill training, and on-going education for all personnel and covering all aspects of resident care and programming. The educational program shall include training and practice in activities and restorative/rehabilitative nursing techniques through out-of-facility or in-facility training programs. This person may conduct these programs personally or see that they are carried out.

- 9) Participating in the development and implementation of resident care policies and bringing resident care problems, requiring changes in policy, to the attention of the facility's policy development group. (See Section 300.610(a).)

- 10) Participating in the screening of prospective residents and their placement in terms of services they need and nursing competencies available.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART I: RESIDENT AND FACILITY RECORDS

Section 300.1860 Staff Responsibility for Medical Records

- a) Each skilled nursing facility shall have a health information management consultant medical--records-practitioner.

- 1) Each skilled nursing facility that has a full-time or part-time health information management consultant medical--records

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1) Heading of the Part: Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 130

3) Section Numbers: 130.331
Proposed Action:
Amendment

4) Statutory Authority: 35 ILCS 120

5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking amends the Manufacturer's Purchase Credit (MPC) regulation to clarify how retailers, servicemen, manufacturers, and graphic arts producers report the use of MPC on prior sales or purchases. Examples are provided for reporting the use of the credit with retailers and for those taxpayers who self-assess tax directly to the Department. This proposed rulemaking also explains that tangible personal property transferred to a manufacturer's or graphic arts producer's customer does not qualify as production related tangible personal property (such as paper and ink transferred by a graphic arts producer). These changes also clarify that MPC is to be reported on the Sales and Use Tax Return (Form ST-1) as a credit and not as a deduction or exemption from gross receipts.

6) Will this proposed amendment replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>IL Register Citation</u>
130.2013	New Section	09/14/01, 25 Ill. Reg. 11759
130.445	Amendment	09/21/01, 25 Ill. Reg. 12065
130.2011	Amendment	09/28/01, 25 Ill. Reg. 12399
130.2012	Amendment	09/28/01, 25 Ill. Reg. 12399
130.120	Amendment	11/02/01, 25 Ill. Reg. 14070
130.325	Amendment	11/02/01, 25 Ill. Reg. 14070
130.330	Amendment	11/02/01, 25 Ill. Reg. 14070
130.332	Amendment	11/02/01, 25 Ill. Reg. 14070
130.1701	Amendment	11/02/01, 25 Ill. Reg. 14070
130.2004	Amendment	11/02/01, 25 Ill. Reg. 14070
130.2135	Amendment	11/02/01, 25 Ill. Reg. 14070
130.535	Amendment	11/02/01, 25 Ill. Reg. 14780
130.1951	Amendment	11/02/01, 25 Ill. Reg. 14780

10) Statement of Statewide Policy Objectives: This rulemaking does not create

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a State mandate, nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Terry Charlton
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small businesses may be affected if they make retail sales of production related tangible personal property. Small businesses that engage in manufacturing or graphic arts production may also be affected.

B) Reporting, bookkeeping or other procedures required for compliance: The proposed rulemaking sets out how taxpayers are to report the use of MPC on prior purchases.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2001

The full text of the Proposed Amendments begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 130
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ILLUSTRATION A Examples of Tax Exemption Cards

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective

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October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 1, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000;

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amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. _____, effective _____.

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.331 Manufacturer's Purchase Credit**a) Earning Manufacturer's Purchase Credit**

- 1) Effective January 1, 1995, a manufacturer may earn a credit when purchasing exempt manufacturing machinery and equipment. Effective July 1, 1996, a graphic arts producer may earn a credit when purchasing exempt graphic arts machinery and equipment. The credit is known as the Manufacturer's Purchase Credit or MPC. The amount of credit is limited to a percentage of the 6.25% State rate of tax that would have been incurred on the purchase of exempt manufacturing machinery and equipment. (See Section 130.325 and Section 130.330 of this Part.)
- 2) The percentage of credit earned based upon exempt purchases increases over time as follows:
 - A) 15% for purchases made on or before June 30, 1995.
 - B) 25% for purchases made after June 30, 1995, and on or before June 30, 1996.
 - C) 40% for purchases made after June 30, 1996, and on or before June 30, 1997.
 - D) 50% for purchases made on or after July 1, 1997. (Section 3-85 of the Use Tax Act)
- 3) The credit is earned at the time qualifying manufacturing machinery and equipment or qualifying graphic arts machinery and equipment is purchased. A qualifying purchase is considered to take place as of the date of invoice of that qualifying manufacturing machinery and equipment. The credit is considered to be earned on qualifying manufacturing machinery and equipment or qualifying graphic arts machinery and equipment that is purchased under an installment contract or progress payment contract at the time that each installment or progress payment is invoiced. The amount of credit that is earned is based on the amount of tax that would have been due on that portion of the purchase price that is invoiced.
- 4) No credit is earned for exempt purchases under the expanded Enterprise Zone exemption, as described in Section 130.1951 (b)

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of this Part, unless that purchase would also qualify as exempt under the Manufacturing Machinery and Equipment Exemption described in Section 130.330 of this Part or under the Graphic Arts Machinery and Equipment Exemption described in Section 130.325 of this Part.

- 5) No credit is earned for a purchase of tangible personal property that qualifies as an occasional sale, as described in Section 130.110 (a) of this Part.
- 6) No credit is earned for a purchase of tangible personal property that is purchased for resale. (See Section 130.210 (a) of this Part.)

b) Using Manufacturer's Purchase Credit

- 1) The credit may be used to satisfy Use Tax or Service Use Tax liability incurred on the purchase of qualifying production related tangible personal property. (See Section 3-85 of the Use Tax Act [35 ILCS 105/3-85] and Section 3-70 of the Service Use Tax Act [35 ILCS 110/3-70].) The credit may be applied only to the 6.25% State rate of tax incurred. Prior to the credit being earned, credit may not be used on a qualifying purchase, except as provided in subsection (e)(7)(B) below. However, the credit may be used the same day that it is earned, but must be followed by proper reporting of the credit as set out in subsections (c), (d), and (e) below. For purposes of when to use accumulated Manufacturer's Purchase Credit, a manufacturer or graphic arts producer is always safe to use the credit in a month after the month in which the credit was earned.

- 2) The credit is non-transferable and may not be used to satisfy the tax liability of any taxpayer other than the manufacturer or graphic arts producer that earned the credit.

A) A manufacturer or graphic arts producer may enter into a written contract with a construction contractor to authorize that construction contractor to utilize Manufacturer's Purchase Credit accumulated by the manufacturer or graphic arts producer for the purchase of tangible personal property to be installed into real estate within a manufacturing or graphic arts production facility for use in a production related process. The written contract must specify the specific dollar amount of Manufacturer's Purchase Credit that the construction contractor is authorized to utilize on behalf of the manufacturer or graphic arts producer.

B) To properly utilize the Manufacturer's Purchase Credit on behalf of the manufacturer or graphic arts producer when purchasing tangible personal property for installation into real estate within a manufacturing or graphic arts production facility for use in a production related process, the contractor must furnish the supplier with information stating:

- i) The manufacturer's or graphic arts producer's name and

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address;

- ii) The manufacturer's or graphic arts producer's registration or resale number; and
- iii) A statement that a specific amount of Use Tax or Service Use Tax liability, not to exceed 6.25% of the selling price, is being satisfied with the Manufacturer's Purchase Credit.

C) To properly utilize the Manufacturer's Purchase Credit on behalf of the manufacturer or graphic arts producer when purchasing tangible personal property for installation into real estate within a manufacturing facility, the contractor must furnish the manufacturer or graphic arts producer with information stating:

- i) Each vendor's or supplier's name and address (including, if applicable, either the vendor's or supplier's registration number or Federal Employer Identification Number);
- ii) The date of purchase, purchase price, and description of the tangible personal property purchased; and
- iii) The amount of the Use Tax or Service Use Tax liability, not to exceed 6.25% of the selling price, that was satisfied by the Manufacturer's Purchase Credit utilized for each purchase.

D) A credit reported under a particular Illinois Business Tax number may not be transferred to a related but separately registered division or company.

3) Production related tangible personal property means:

A) All tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process described in Section 2-45 of the Retailers' Occupation Tax Act takes place.

B) All tangible personal property used or consumed in a production related process by a graphic arts producer in a graphic arts production facility in which a graphic arts production process described in Section 2-30 of the Retailers' Occupation Tax Act takes place.

C) All tangible personal property used or consumed by a manufacturer or graphic arts producer in research and development regardless of use within or without a manufacturing or graphic arts production facility. (See Section 3-85 of the Use Tax Act.)

4) By way of illustration and not limitation, the following uses of tangible personal property will be considered production related:

- A) Tangible personal property purchased by a manufacturer for incorporation into real estate within a manufacturing facility for use in a production related process; or
- tangible personal property purchased by a construction

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contractor for incorporation into real estate within a manufacturing facility for use in a production related process pursuant to a written contract described in subsection (b)(2)(A) of this Section.

- B) Supplies and consumables used in a manufacturing facility, including fuels, coolants, solvents, oils, lubricants, cleaners and adhesives.
 - C) Hand tools, protective apparel, and fire and safety equipment used or consumed in a manufacturing facility.
 - D) Tangible personal property used or consumed in a manufacturing facility for purposes of pre-production and post-production material handling, receiving, quality control, inventory control, storage, staging and packing for shipping or transportation.
 - E) Fuel used in a ready-mix cement truck to rotate the mixing drum in order to manufacture concrete or cement. However, only the amount of fuel used to rotate the drum will qualify. The amount of fuel used or consumed in transportation of the truck will not qualify as production related tangible personal property. The amount of fuel used in a qualifying manner to rotate the drum may be stated as a percentage of the entire amount of fuel used or consumed by the ready-mix truck.
 - F) Tangible personal property purchased by a graphic arts producer for incorporation into real estate within a graphic arts production facility for use in a production related process; or tangible personal property purchased by a construction contractor for incorporation into real estate within a graphic arts production facility for use in a production related process pursuant to a written contract described in subsection (b)(2)(A) of this Section.
 - G) Supplies and consumables used in a graphic arts production facility, including solvents, oils, lubricants, cleaners and adhesives. Paper and ink that is transferred to a customer does not qualify as production related tangible personal property.
 - H) Hand tools, protective apparel, and fire and safety equipment used or consumed in a graphic arts production facility.
 - I) Tangible personal property used or consumed inside a graphic arts facility for purposes of preliminary or pre-press production, pre-production material handling, receiving, quality control, inventory control, storage, staging, sorting, labeling, mailing, tying, wrapping, and packaging.
- 5) By way of illustration and not limitation, the following uses of property will not be considered production related:
- A) The use of trucks, trailers, and motor vehicles which are required to be titled or registered pursuant to the Illinois

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Motor Vehicle Code [625 ILCS 5], and aircraft or watercraft required to be registered with an agency of State or federal government.

- B) Office supplies, computers, desks, copiers and equipment which are used for sales, purchasing, accounting, fiscal management, marketing and personnel recruitment or selection activities, even if such use takes place within a manufacturing or graphic arts production facility.
 - C) Tangible personal property used or consumed for aesthetic or decorative purposes, including landscaping and artwork.
 - D) Tangible personal property used or consumed outside the manufacturing or graphic arts production facility, including tangible personal property listed in subsections (b)(4)(D) and (b)(4)(I) above with the exception of tangible personal property used or consumed for research and development purposes.
 - E) Tangible personal property purchased by a construction contractor for incorporation into a manufacturing or graphic arts production facility, unless such purchase by the construction contractor was made on behalf of a manufacturer or graphic arts producer pursuant to a written contract described in subsection (b)(2)(A) of this Section.
 - F) Except as otherwise provided in subsection (b)(2) of this Section, tangible personal property transferred to a manufacturer's customer or the customer of a person that is engaged in graphic arts production. For example, paper and ink transferred to a customer by a de minimis serviceman as described in 86 Ill. Adm. Code 140.108 that is engaged in graphic arts production is not considered production related.
- 6) The credit may be used to satisfy the State portion (6.25%) of a Use Tax or Service Use Tax liability arising under audit where the liability established is the result of:
- A) an erroneous claim of the Manufacturing Machinery and Equipment Exemption provided in Section 2-45 of the Retailers' Occupation Tax Act,
 - B) an erroneous claim of the Graphic Arts Machinery and Equipment Exemption provided in Section 2-5(4) of the Retailers' Occupation Tax Act, or
 - C) the manufacturer or graphic arts producer failing to self-assess and remit Use Tax or Service Use Tax on the purchase of production related tangible personal property.
- (See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.) The credit may only be used to satisfy the State portion (6.25%) of a Use Tax or Service Use Tax liability incurred on the purchase of qualifying production related tangible personal property. Under no circumstances may the credit be used to satisfy penalty and interest or other tax

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liability incurred by the manufacturer or graphic arts producer. Credit may be used to satisfy the State portion (6.25%) of a qualifying Use Tax or Service Use Tax liability incurred by a manufacturer or graphic arts producer on a purchase of production related tangible personal property when payment of tax must be made directly to the Department.

8) The credit expires December 31st of the second calendar year following the calendar year in which the credit was earned. (See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.) However, for credit earned on or after June 30, 1995, the life of unreported credit may be extended during the period of an agreed extension of the statute of limitations as provided in subsection (e)(7) below.

9) A manufacturer or graphic arts producer may use credit to satisfy Service Use Tax liability only when purchasing production related tangible personal property transferred incident to a sale of service.

c) Reporting Manufacturer's Purchase Credit Earned or Used for Periods from January 1, 1995 through June 29, 1995

1) In order to validate credit earned as the result of a qualifying purchase of exempt manufacturing machinery and equipment or credit used on a qualifying purchase, the manufacturer must report credit earned to the Department in a timely manner. Failure to report credit earned will result in expiration of the credit as of the date earned.

2) On forms prescribed or approved by the Department, a manufacturer must report credit earned or used by the last day of the second month following the month of creation or use of the credit. No credit report is required for any month in which a manufacturer neither earned nor used credit. Original invoices or copies of original invoices are not to be filed with the Department.

3) Credit Use or Misuse Causing Expiration of Credit. Credit used, whether properly or improperly, expires upon use and cannot be recreated once used. The manufacturer may be liable for tax, penalty and interest on the purchase of production related tangible personal property where expired credit was used, in accordance with provisions of the Uniform Penalty and Interest Act [35 ILCS 735]. The following represent examples of uses of credit that will result in expiration of the credit:

- A) Failure to report credit or use of credit.
- B) Failure to timely report credit or use of credit.
- C) Use of credit prior to actually earning credit as described in subsection (a)(3) above.
- D) Return of goods to supplier for full refund including tax where credit was tendered in payment of tax. Credit expires once used and cannot be recreated once used regardless of reason for return.

4) A purchaser earning Manufacturer's Purchase Credit must maintain

records, as to each purchase of manufacturing machinery and equipment on which the purchaser earned Manufacturer's Purchase Credit, that identify the following:

- A) The vendor or supplier (including, if applicable, either the vendor's or supplier's Illinois registration number or Federal Employer Identification Number);
- B) The date of purchase, purchase price, and description of the exempt manufacturing machinery and equipment; and
- C) The amount of Manufacturer's Purchase Credit earned on that purchase.

5) A purchaser using Manufacturer's Purchase Credit must maintain records, as to each purchase of production related tangible personal property on which the purchaser used Manufacturer's Purchase Credit to satisfy the purchaser's Use Tax or Service Use Tax liability, that identify the following:

- A) The vendor or supplier (including, if applicable, either the vendor's or supplier's Illinois registration number or Federal Employer Identification Number);
- B) The date of purchase, purchase price, and description of the production related tangible personal property; and
- C) The amount of Manufacturer's Purchase Credit used to satisfy the purchaser's Use Tax or Service Use Tax liability on that purchase.

6) As determined pursuant to audit by the Department, credit earned by purchase of exempt machinery and equipment that has not been timely and properly reported will result in expiration of the credit. Use of expired credit in this situation may result in an assessment for tax, penalty and interest on the subsequent purchase of production related tangible personal property. Credit that was properly reported when earned but was not timely and properly reported to the Department when used will likewise expire resulting in an assessment for tax, penalty and interest on the purchase of production related tangible personal property for which it was offered in payment of Use Tax or Service Use Tax liability.

d) Reporting Manufacturer's Purchase Credit Earned or Used on June 30, 1995

1) The reporting requirements for Manufacturer's Purchase Credit were changed by Public Act 89-89, effective June 30, 1995. In order to provide consistent and easier reporting requirements for manufacturers utilizing Manufacturer's Purchase Credit and the Department's Administration of the Manufacturer's Purchase Credit program, manufacturers are required to report Manufacturer's Purchase Credit earned or used on June 30, 1995, under the methods described in subsection (c) of this Section. However, the Manufacturer's Purchase Credit earned or used on that date will be subject to the provisions described in subsection (e) of this Section without the necessity of including those

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Manufacturer's Purchase Credits in an Annual Report of Manufacturer's Purchase Credit Earned or an Annual Report of Manufacturer's Purchase Credit Used.

- 2) A manufacturer filing an amended Annual Manufacturer's Purchase Credit Report under subsection (e)(7) of this Section that includes Manufacturer's Purchase Credit earned or used on June 30, 1995 must disclose that such report includes Manufacturer's Purchase Credit earned or used on June 30, 1995.

- e) Reporting Manufacturer's Purchase Credit Earned or Used for Periods on or after July 1, 1995

- 1) In order to validate credit earned as the result of a qualifying purchase of exempt manufacturing machinery and equipment or exempt graphic arts machinery and equipment, the manufacturer or graphic arts producer must report credit earned to the Department by signing and filing an Annual Report of Manufacturer's Purchase Credit Earned for each calendar year no later than the last day of the sixth month following the calendar year in which the Manufacturer's Purchase Credit is earned. The Annual Report of Manufacturer's Purchase Credit Earned shall be filed on forms prescribed or approved by the Department and shall state, for each month of the calendar year:

- A) The total purchase price of all purchases of exempt manufacturing machinery and equipment or graphic arts machinery and equipment on which the credit was earned;
- B) The total State Use Tax or Service Use Tax which would have been due on those items
- C) The percentage used to calculate the amount of credit earned;
- D) The amount of credit earned; and
- E) Such other information as the Department may reasonably require. (See Section 3-85 of the Use Tax Act.)

- 2) A purchaser earning Manufacturer's Purchase Credit must maintain records, as to each purchase of manufacturing machinery and equipment and graphic arts machinery and equipment on which the purchaser earned Manufacturer's Purchase Credit, that identify the following:

- A) The vendor or supplier (including, if applicable, either the vendor's or supplier's Illinois registration number or Federal Employer Identification Number);
- B) The date of purchase, purchase price, and description of the exempt manufacturing machinery and equipment and graphic arts machinery and equipment; and
- C) The amount of Manufacturer's Purchase Credit earned on that purchase.

- 3) In order to validate credit used to satisfy the tax liability on purchases of production related tangible personal property, the manufacturer or graphic arts producer must report credit used to the Department by signing and filing an Annual Report of

Manufacturer's Purchase Credit Used for each calendar year no later than the last day of the sixth month following the calendar year in which the Manufacturer's Purchase Credit is used. The Annual Report of Manufacturer's Purchase Credit Used shall be filed on forms prescribed or approved by the Department and shall state, for each month of the calendar year:

- A) The total purchase price of all production related tangible personal property purchased from Illinois vendors or suppliers;
- B) The total purchase price of all production related tangible personal property purchased from out-of-State vendors or suppliers;
- C) The total amount of Manufacturer's Purchase Credit used during each month; and
- D) Such other information as the Department may reasonably require. (See Section 3-85 of the Use Tax Act.)

- 4) A purchaser using Manufacturer's Purchase Credit must maintain records, as to each purchase of production related tangible personal property on which the purchaser used Manufacturer's Purchase Credit to satisfy the purchaser's Use Tax or Service Use Tax liability, that identify the following:

- A) The vendor or supplier (including, if applicable, either the vendor's or supplier's Illinois registration number or Federal Employer Identification Number);
- B) The date of purchase, purchase price, and description of the production related tangible personal property; and
- C) The amount of Manufacturer's Purchase Credit used to satisfy the purchaser's Use Tax or Service Use Tax liability on that purchase.

- 5) No Annual Report of Manufacturer's Purchase Credit Earned or Annual Report of Manufacturer's Purchase Credit Used may be filed with the Department before May 1, 1996. (Section 3-85 of the Act)

- 6) A purchaser that fails to properly file an Annual Report of Manufacturer's Purchase Credit Earned or an Annual Report of Manufacturer's Purchase Credit Used with the Department by the last day of the sixth month following the end of the calendar year forfeits all Manufacturer's Purchase Credit earned or used for that calendar year, unless the purchaser establishes that the purchaser's failure to file was due to reasonable cause.

- 7) Annual Manufacturer's Purchase Credit reports may be amended to report and claim credit on qualifying purchases of manufacturing machinery and equipment and graphic arts machinery and equipment not previously reported at any time before the credit would have expired, unless both the Department and the purchaser have agreed to an extension of the statute of limitations for the issuance of a Notice of Tax Liability as provided in Section 4 of the Retailers' Occupation Tax Act. However, such an agreed extension will not restore a credit that has previously been reported and

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has expired prior to the agreed extension. Manufacturer's Purchase Credit that had not been previously reported and is included in an amended Annual Report submitted as a result of such an agreed extension will expire as provided in subsection (b)(8) of this Section or at the end of the agreed extension period, whichever is longer. If the time for assessment or refund has been extended by agreement, amended reports for a calendar year may be filed at any time prior to the date to which the statute of limitations for the calendar year or portion thereof has been extended. Manufacturer's Purchase Credit claimed on an amended report may be used to satisfy tax liability under the Use Tax Act or the Service Use Tax Act on:

- A) Qualifying purchases of production related tangible personal property made after the date the amended report is filed;
- B) Amounts assessed by the Department on purchases made on or after January 1, 1995 of machinery and equipment that did not qualify for the exemption described in Section 130.330 of this Part, but would have qualified as production related tangible personal property. The credit will be applied to the tax portion of the assessment liability as of the date that the Department receives a written request by the purchaser directing the Department to apply the credit to the assessment liability; or
- C) Amounts assessed by the Department on purchases made on or after July 1, 1996 of machinery and equipment that did not qualify for the exemption described in Section 130.325 of this Part, but would have qualified as production related tangible personal property. The credit will be applied to the tax portion of the assessment liability as of the date that the Department receives a written request by the purchaser directing the Department to apply the credit to the assessment liability.
- 8) A purchaser who used Manufacturer's Purchase Credit to satisfy the purchaser's Use Tax or Service Use Tax liability incurred on the purchase of property that is later determined not to qualify as production related tangible personal property may be liable for tax, penalty, and interest on the purchase of that property as of the date of the purchase. However, the purchaser is entitled to use such disallowed Manufacturer's Purchase Credit, so long as it has not expired, on qualifying purchases of production related tangible personal property not previously subject to credit usage.
- f) Retailers or Servicemen Accepting Manufacturer's Purchase Credit
 - 1) In order to accept Manufacturer's Purchase Credit from a manufacturer or graphic arts producer, the supplier or serviceman must obtain a Manufacturer's Purchase Credit certificate from the manufacturer or graphic arts producer unless the manufacturer or graphic arts producer has incorporated its certification into the

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manufacturer's or graphic arts producer's purchase order as described below. The manufacturer or graphic arts producer may provide the certification on a form provided by the Department or on the manufacturer's or graphic arts producer's own form containing the appropriate information. The certificate must be kept in the supplier's or serviceman's books and records, but need not be submitted to the Department with the supplier's or serviceman's return. A Manufacturer's Purchase Credit certificate must contain the following information:

- A) A signed statement that the manufacturer or graphic arts producer is using available accumulated Manufacturer's Purchase Credit to satisfy all or part of the 6.25% portion of Use Tax or Service Use Tax liability incurred on a qualifying purchase of production related tangible personal property;
 - B) The manufacturer's or graphic arts producer's name and address;
 - C) The manufacturer's or graphic arts producer's registration number, if registered;
 - D) The date of purchase of the production related tangible personal property; and
 - E) The credit being used. (See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.)
- 2) A manufacturer or graphic arts producer may incorporate the Manufacturer's Purchase Credit certification into the manufacturer's or graphic arts producer's purchase order if all of the required information is contained within that purchase order.
 - 3) Manufacturer's Purchase Credit accepted by the supplier or serviceman may be used by the supplier or serviceman to pay satisfy its liability incurred under the Retailers' Occupation Tax Act or Service Occupation Tax Act, so long as the supplier or serviceman complies with the following:
 - A) The supplier or serviceman may not accept credit in excess of 6.25% of the purchase price of qualifying production related tangible personal property. (See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.)
 - B) The supplier or serviceman must properly report acceptance of the credit to the Department in order to be--entitled--to use of the credit to pay in-satisfaction-of Retailers' Occupation Tax or Service Occupation Tax liability. The Manufacturer's Purchase Credit (MPC) does not create an exemption or an authorized deduction. The MPC is a means for the supplier or serviceman to pay Retailers' Occupation Tax or Service Occupation Tax, as the case may be. Therefore, the receipts from transactions in which customers have provided MPC cannot be deducted from the gross receipts

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reported on the Sales and Use Tax Return (Form ST-1). Receipts from transactions in which customers have provided MPC must be included in gross receipts subject to tax reported on line 1 and line 3 of the return. The resulting tax on those gross receipts can then be paid by using the credit on line 16a of the return.

g) Lessors Earning and Using Manufacturer's Purchase Credit

- 1) A lessor leasing exempt manufacturing machinery and equipment to a manufacturer or graphic arts machinery and equipment to a graphic arts producer may earn Manufacturer's Purchase Credit when purchasing such machinery and equipment, in the same manner as a manufacturer or graphic arts producer.
- 2) A lessor leasing qualifying production related tangible personal property to a manufacturer or graphic arts producer may use Manufacturer's Purchase Credit when purchasing such qualifying property in the same manner as a manufacturer or graphic arts producer. (See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.)
- 3) A lessor of exempt machinery and equipment and qualifying production related tangible personal property must report the accumulation and use of credit in the same manner as required for manufacturers or graphic arts producers.
- 4) Since the Manufacturer's Purchase Credit is a non-transferable credit, a lessor may not use credit earned by a lessee, nor may a lessor transfer credit it has earned to a lessee.

h) Retailers or Servicemen Accepting Manufacturer's Purchase Credit After Qualifying Purchases

- 1) A manufacturer or graphic arts producer that does not provide the certification or purchase order as provided in subsection (f) of this Section to a retailer or serviceman at the time of purchase of production related tangible personal property must pay the appropriate amount of Use Tax or Service Use Tax at that time to the retailer or serviceman. However, retailers and servicemen are not prohibited from accepting Manufacturer's Purchase Credit (MPC) certifications after qualifying sales of production related tangible personal property have taken place. Retailers and servicemen are not required to accept the certifications and are not required to refund the amount of Use Tax or Service Use Tax that was properly paid by the manufacturers or graphic arts producers in exchange for the certificates after the sales have taken place.

- 2) Retailers and servicemen that choose to accept MPC certifications from manufacturers and graphic arts producers after qualifying sales of production related tangible personal property have taken place and refund the amount of Use Tax or Service Use Tax that was properly paid by those manufacturers or graphic arts producers must file amended returns or claims for credit or refund as provided in Section 130.1501 of this Part. However, to

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avoid the potential of retailers and servicemen filing multiple amended returns and claims for credit or refund, retailers and servicemen may elect to report the acceptance of that MPC on line 16a of the retailers' and servicemen's sales and use tax returns for the period in which those refunds occurred. The retailer's or serviceman's election to report the acceptance of the credit on their current return, in lieu of filing an amended return and claim for credit or refund, does not supersede the applicability of the statute of limitations described in Section 130.1501(a)(4) of this Part to the claiming of that credit by the retailer or serviceman. Retailers and servicemen may only refund the 6.25% of State Use Tax or Service Use Tax paid by the manufacturers and graphic arts producers. (See subsection (b) of this Section.)

- 3) Manufacturers and graphic arts producers who provide MPC certifications to retailers or servicemen after qualifying sales of production related tangible personal property have taken place as provided in this subsection (h) must report the use of the credit on an Annual Report of Manufacturer's Purchase Credit Used for the calendar year in which the certification was provided listing the use of the credit in the month in which the certification is provided.

- 4) Example: A manufacturer purchased production related tangible personal property from a retailer in June 1999. The manufacturer paid Use Tax to the retailer at the time of purchase. In January 2001, the manufacturer asks the retailer to accept an MPC certification for the June 1999 purchase and refund the Use Tax (6.25%) paid previously by the manufacturer. The retailer chooses to accept the certification and refunds the amount of the Use Tax (6.25%) to the manufacturer. The retailer makes the election to report the acceptance of the credit on line 16a of the retailer's January 2001 sales and use tax return (rather than filing an amended return or claim for credit or refund). The manufacturer must report the use of the credit in the month of January on an Annual Report of Manufacturer's Purchase Credit Used for the year 2001.

- i) Manufacturers or Graphic Arts Producers Reporting Use of Manufacturer's Purchase Credit After Qualifying Purchases When Use Tax or Service Use Tax Was Already Paid Directly to the Department

- 1) Manufacturers and graphic arts producers who self-assess Use Tax or Service Use Tax directly to the Department are not prohibited from reporting the use of Manufacturer's Purchase Credit (MPC) after the qualifying purchase of production related tangible personal property when those manufacturers or graphic arts producers have already paid the appropriate amount of Use Tax or Service Use Tax directly to the Department.

- 2) Manufacturers and graphic arts producers who choose to use MPC as provided in this subsection (i) must file an amended return or claim for credit or refund with the Department as provided in

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Section 130.1501 of this Part. However, to avoid the potential of manufacturers and graphic arts producers filing multiple amended returns and claims for credit or refund, manufacturers and graphic arts producers may elect to report the use of that credit on line 16a of their current sales and use tax returns. The manufacturer's or graphic arts producer's election to report the acceptance of the credit on the current return, in lieu of filing an amended return and claim for credit or refund, does not supersede the applicability of the statute of limitations described in Section 130.1501(a)(4) of this Part to the claiming of that credit by the manufacturer or graphic arts producer.

- 3) Manufacturers and graphic arts producers who report the use of MPC on their current sales and use tax return as provided in this subsection (i) must also report the use of the credit on an Annual Report of Manufacturer's Purchase Credit Used for the calendar year in which the manufacturer's or graphic arts producer's current sales and use tax return falls.

- 4) Example: A manufacturer, that self assesses Use Tax and Service Use Tax directly to the Department, made a qualifying purchase of production related tangible personal property in August 1999 and paid the Use Tax on that purchase to the Department with the manufacturer's August 1999 return. In January 2001, the manufacturer chose to use currently available MPC to satisfy the Use Tax liability that was incurred on that qualifying purchase back in August 1999. The manufacturer elected to report the use of the MPC on line 16a of the manufacturer's sales and use tax return for the month of January 2001 (rather than filing an amended return or claim for credit or refund). The manufacturer must also report the use of that credit in the month of January on an Annual Report of Manufacturer's Purchase Credit Used for the year 2001.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Practice in Administrative Hearings
- 2) Code Citation: 89 Ill. Adm. Code 14
- 3) Section Numbers: 14.340
Adopted Action: Amendment
- 4) Statutory Authority: Implementing Sections 11-8 through 11-8.7, 12-4.9 and 12-4.25 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-8 through 11-8.7, 12-4.9, 12-4.25 and 12-13]
- 5) Effective Date of Rulemaking: October 31, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 27, 2001, 25 Ill. Reg. 9458
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

- 13) Will this amendment replace any emergency amendment currently in effect?
No

- 14) Are there any amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
14.45	Amendment	25 Ill. Reg. 6822 6/1/01
14.55	Amendment	25 Ill. Reg. 6822 6/1/01

- 15) Summary and Purpose of Amendment: This rulemaking amends the Section on "Failure to Appear" to add language to make the rule consistent with the federal regulations. The amendment details time frames that are in place for requesting a hearing.

- 16) Information and questions regarding this adopted amendment shall be directed to:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217)785-9772

The full text of the adopted amendment begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROVISIONS

PART 14

PRACTICE IN ADMINISTRATIVE HEARINGS

SUBPART A: ASSISTANCE APPEAL

Section

14.1 Purpose

14.2 Incorporation by Reference

14.5 Definitions

14.10 Initiation of an Appeal

14.11 Pre-Hearing Meeting

14.12 Review of Case Record

14.15 Notice of Hearing

14.20 Venue and Conduct of Hearings

14.21 Representation

14.22 Appellant Participation in Hearing

14.23 Evidentiary Requirements

14.30 Subpoenas

14.35 Amendment of Appeal

14.40 Consolidation of Appeals

14.45 Postponement or Continuation of Hearings

14.50 Withdrawal of Appeal

14.55 Closing of Hearing Record

14.60 Dismissal of Appeal

14.70 Final Administrative Decision

14.80 Public Aid Committee

SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

Section

14.100 Responsible Relative and Joint Payee Petitions

14.101 Petition for Hearing

14.102 Conduct of Administrative Support Hearings

SUBPART C: FOOD STAMP ADMINISTRATIVE DISQUALIFICATION HEARINGS

Section

14.300 Suspected Intentional Violation of the Program

14.310 Advance Notice of Administrative Disqualification Hearing

14.320 Postponement of Hearing

14.330 Administrative Disqualification Hearing Procedures

14.340 Failure to Appear

14.350 Participation While Awaiting a Hearing

14.360 Consolidation of Administrative Disqualification Hearing with Fair

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

Hearing

14.370 Administrative Disqualification Hearing Decision and Notice of Decision

14.380 Appeal Procedure

AUTHORITY: Implementing Sections 11-8 through 11-8.7, 12-4.9 and 12-4.25 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-8 through 11-8.7, 12-4.9, 12-4.25 and 12-13].

SOURCE: Adopted at 25 Ill. Reg. 5335, effective March 15, 2001; amended at 25 Ill. Reg. 15253, effective OCT 31 2001.

SUBPART C: FOOD STAMP ADMINISTRATIVE DISQUALIFICATION HEARINGS

Section 14.340 Failure to Appear

If the household member or representative cannot be located or fails to appear at the scheduled hearing without good cause, the hearing shall be conducted without the household member represented. Even though the household member is not represented, the hearing officer is required to consider the evidence and determine if an intentional violation of the program was committed based on clear and convincing evidence. If a determination of intentional violation of the program is made, and no proof of receipt of the scheduling notice has been obtained, the household member has 30 days after the date of the written notice of the hearing decision to request a new hearing based on a showing of non-receipt of the scheduling notice. In all other instances, the household member has 10 days after the date of the scheduled hearing to present reasons showing good cause for failure to appear. (See Section 14.60(e) for definition of good cause.) The Bureau of Assistance Hearings shall determine if the household member had good cause for not appearing and make a determination as to whether a new hearing should be scheduled.

(Source: Amended at 25 Ill. Reg. 15253, effective OCT 31 2001)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Pari-Mutuels

2) Code Citation: 11 Ill. Adm. Code 300

3) Section Number: Adopted Action:
300.50 Amended

4) Statutory Authority: 230 ILCS 5/9(b)

5) Effective Date of Rulemaking: November 1, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 25 Ill. Reg. 7861 - 6/29/01

10) Has JCAR issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rulemaking currently in effect?
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking increases by one live race, the number of harness races which make up a single racing program.

16) Information and questions regarding this adopted amendment shall be directed to:

Mickey Ezze
Illinois Racing Board
100 West Randolph, Suite 11-100
Chicago, Illinois 60601
(312) 814-5017

The full text of the adopted amendment begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
 SUBTITLE B: HORSE RACING
 CHAPTER I: ILLINOIS RACING BOARD
 SUBCHAPTER a: GENERAL RULES

PART 300
 PARI-MUTUELS

Section	
300.10	General
300.20	Records
300.30	Pari-Mutuel Tickets
300.40	Pari-Mutuel Wagers
300.50	Pari-Mutuel Races
300.60	Advanced Wagering
300.70	Scratches or Non-Starter
300.80	Pools Dependent Upon Betting Interests
300.90	Minimum Payoff
300.100	Pari-Mutuel Complaints

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 19 Ill. Reg. 13935, effective October 1, 1995; emergency amendment at 20 Ill. Reg. 12522, effective September 1, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 955, effective January 7, 1997; amended at 22 Ill. Reg. 7044, effective May 1, 1998; emergency amendment at 23 Ill. Reg. 7772, effective June 28, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13935, effective November 2, 1999; amended at 25 Ill. Reg. 15257, effective NOV - 1 2001.

Section 300.50 Pari-Mutuel Races

- a) Wagering shall be prohibited on more than 11 live harness races during the course of a single racing program except on Fridays, Saturdays and Sundays when wagering shall be prohibited on more than 12 live harness races, unless permission to wager on additional races has been granted by the Board.
- b) Wagering shall be prohibited on more than 10 live thoroughbred races during the course of a single racing program, unless permission to wager on additional races has been granted by the Board.

(Source: Amended at 25 Ill. Reg. 15257, effective NOV - 1 2001)

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Public Use of the Capitol Complex Facilities
- 2) Code Citation: 71 Ill. Adm. Code 2005
- 3) Section Numbers:
- | | |
|---------|-------------------|
| 2005.10 | Emergency Action: |
| 2005.20 | Amendment |
| 2005.30 | Amendment |
| 2005.40 | Amendment |
| 2005.50 | Amendment |
| 2005.60 | Amendment |
| 2005.70 | Amendment |
| 2005.80 | Amendment |
| 2005.90 | Amendment |
- 4) Statutory Authority: Implementing and authorized by Section 5 of the Secretary of State Act [15 ILCS 305/5].
- 5) Effective Date of Amendment: November 7, 2001
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This Emergency Amendment will not expire before the end of the 150-day period.
- 7) Date Filed with the Index Department: November 7, 2001
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: There is a need for increased security in the Capitol Complex in light of the terrorist attacks of September 11, 2001.
- 10) A Complete Description of the Subjects and Issues Involved: A revision of the procedures for security at the Capitol Complex. This includes establishing rules for identification of employees, vendors and visitors and revises the rules for demonstrations.
- 11) Are there any proposed amendments to this Part Pending? No
- 12) Statement of Statewide Policy Objectives: These amendments will not require any new expenditures by units of local government.
- 13) Information and questions regarding these amendments shall be directed to:

Robert W. Mueller, Assistant General Counsel
 Department of Driver Services
 2701 S. Dirksen Parkway

SECRETARY OF STATE
NOTICE OF EMERGENCY AMENDMENTS
TITLE 71: PUBLIC BUILDINGS, FACILITIES AND REAL PROPERTY
CHAPTER IV: SECRETARY OF STATE

PART 2005
PUBLIC USE OF THE CAPITOL COMPLEX FACILITIES

Section	
2005.10	Applicability
<u>EMERGENCY</u>	
2005.20	Definitions
<u>EMERGENCY</u>	
2005.30	Business Hours and Public Access
<u>EMERGENCY</u>	
2005.40	Prohibited Activities
<u>EMERGENCY</u>	
2005.50	Demonstrations
<u>EMERGENCY</u>	
2005.60	Use of Buildings for Non-Demonstration Activity or Fund Raising
<u>EMERGENCY</u>	
2005.70	Distribution of Leaflets and Solicitations of Funds
<u>EMERGENCY</u>	
2005.80	Secretary of State Police Department
<u>EMERGENCY</u>	
2005.90	Severability
<u>EMERGENCY</u>	

AUTHORITY: Implementing and authorized by Section 5 of the Secretary of State Act [15 ILCS 305/5].

SOURCE: Adopted at 14 Ill. Reg. 7282, effective May 1, 1990; emergency amendment at 21 Ill. Reg. 6927, effective May 21, 1997, for a maximum of 150 days; emergency expired October 17, 1997; amended at 21 Ill. Reg. 14563, effective October 23, 1997; emergency amendment at 25 Ill. Reg. 15259, effective November 7, 2001, for a maximum of 150 days.

Section 2005.10 Applicability
EMERGENCY

This Part is applicable to the use of the Stratton Building, the Visitors' Center, the Supreme Court Building, the Capitol Building, the Willard Ice Revenue Building, the Department of Driver Services Building, the Howlett Centennial Building, the State Library and their grounds, the Archives Building, Driver's License Facility Mechanical Services Building at 316 North Klein, Klein and Mason Warehouse, Power Plant at 315 North Klein, Court of Claims, Waterways Building, Appellate Court at 201 West Monroe, ~~Legislative Commission--at--300--West--Monroe~~, the ~~Warehouses~~ new-warehouse at 3701 and 3765 Winchester Road, the Index Division at 111 East Monroe, the Emergency Services at 110 East Adam, the Securities Department at 900 South Spring, ~~the-inspector~~

SECRETARY OF STATE
NOTICE OF EMERGENCY AMENDMENTS
Springfield IL 62723
217-782-5356

The full text of the emergency amendments begins on the next page:

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENTS

General/Internal Affairs-at-035-South-Spring, the Secretary of State Police at 322 East Adams, Internal Audits at 324 West Monroe, the Herndon Building at 421 East Capitol, the Property-Control-Warehouse-Museum-Collection-Center-at-11th and-Ash-Street, and the Property Control/Plate-Room-Facility/Literacy Division at 4th and Jackson, pursuant to Section 5 of the Secretary of State Act [15 ILCS 305/5] 111-Rev-Stat--1987--ch--124--par--5(7)-(AN-ACB-to-revise-the--law in-relation-to-the-Secretary-of-State).

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 15259, effective November 7, 2001, for a maximum of 150 days)

Section 2005.20 Definitions

EMERGENCY

"Building" means the Stratton Office Building, Visitors' Center, the Capitol Building, the Howlett Centennial Building, and other buildings named in Section 2005.10 of this Part, in Springfield, Illinois.

"Capitol Complex" means all buildings, grounds, and parking lots herein identified with boundaries being Washington Street, Third Street, Cook Street, and Pasfield Street in the City of Springfield, based upon Section 3.08 of the Space Needs Act [25 ILCS 125/3.08] 111-Rev-Stat--1987--ch--63--par--223-80.

"Commercial Activity" means an activity whose primary purpose is to obtain a profit for the benefit of an individual, or business entity organized for profit and shall not include the solicitation of donations by anyone during a demonstration, or for charitable purposes, as defined by the Charitable Trusts Act [760 ILCS 55] 111-Rev-Stat--1987--ch--147--par--51-et--seq-- and Solicitation for Charity Act An-Act-to-regulate-solicitations-and-collection-of-funds for-charitable-purposes. [225 ILCS 460] 111-Rev-Stat--1987--ch--337 par--5181-et--seq--.

"Demonstration" means demonstrating, picketing, marching, rallying, selling non-commercial printed matter or materials, moving in procession, holding of vigils, singing, chanting, or shouting in a loud voice of the type that could interfere with the business conducted in the building, and all other forms of public demonstrative activity that involve the communication or expression orally or by conduct, of views or grievances, engaged in by one or more persons, the conduct of which has the effect, intent, or propensity to draw a crowd or onlookers within 100 feet of the buildings named in Section 2005.10 of this Part or on the Capitol Complex grounds, or within the building or the Capitol. Demonstration shall also mean demonstrating, parading, picketing, speechmaking, holding of vigils, sit-ins, or other activities, conducted for the purpose of demonstrating approval or disapproval of governmental policies or practices (or the lack

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thereof), expressing a view on public issues, or bringing into public notice any issue or other matter. However, nothing herein shall be construed to govern lobbyists or lobbying as defined by the Lobbyist Registration Act [25 ILCS 170], 111-Rev-Stat--1987--ch--63--par--171-et--seq-- nor shall a demonstration mean the peaceful contact or discussion by one or more persons with elected representatives during a legislative session, or with executive branch officials, concerning their view on public or personal issue.

"Director" means the Director or Acting Director of the Department of Physical Services of the Office of the Secretary of State of Illinois.

"Government Photo Identification Card" shall mean an employee identification card issued by any State, local or federal government or agency, or one issued by the Secretary of State to lobbyists or vendors or their employees, and employees of State agencies that do not issue photo identification cards.

"Grounds" shall mean the grass areas, garden areas, and ~~shall--exclude~~ all parking areas in the Capitol Complex.

"Interfere" or "interference" shall mean the type of conduct which by its nature tends to hinder, disrupt, or obstruct the orderly function of the official enterprises being carried on in the building or on the land of the building or Capitol Complex.

"Structure" shall mean anything, built by any person or persons, of any material or substantive, for purposes of display, residence, or as part of a demonstration. This term shall not refer to anything built pursuant to a state contract for construction, remodeling, or repair of any state property within the Capitol Complex or the buildings building defined in Section 2005.10 of this Part.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 15259, effective November 7, 2001, for a maximum of 150 days)

Section 2005.30 Business Hours and Public Access

EMERGENCY

- a) The public business hours of the Capitol Complex Buildings are 7 a.m. to 6 p.m. Monday through Friday, except holidays declared by the Governor pursuant to Section 18 of the Civil Administrative Code of Illinois [20 ILCS 5/18], 111-Rev-Stat--1987--ch--127--par--187 and on weekends and holidays between 9 a.m. and 4 p.m. for purposes of public tours only. When the General Assembly is in session, and the start of a committee meeting or session is sooner or later than the limits listed in this subsection, the public hours shall be one hour before the earliest committee meeting or session of either house for

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the opening time, and one hour after the adjournment of the last committee meeting or session of either house for the closing time in the Capitol Building or in whatever building the legislative function is held.

- b) Entrance to any building during other than the times stated in subsection (a) of this Section is prohibited, except for the following persons who shall be admitted to office areas assigned to them for their use in carrying out their official duties;

- 1) members of the General Assembly;
- 2) employees of the General Assembly;
- 3) employees of the executive departments whose offices are in the building;
- 4) representatives of news media who have offices in the Capitol Building;
- 5) any authorized maintenance, repairer, contractor or other service employee, while performing duties which have been arranged for by the Department of Physical Services; and
- 6) any person who is specifically specifically requested to enter into any building or office by an authorized individual listed in subsections (b)(1) to (4) of this Section.

- c) Proper identification of all persons such as a press pass, government photo identification identity card, a driver's license or other document which shows the identity of the person, may be demanded by security personnel, and all persons will be required to sign in and out of a building after 5 p.m. and before 7 a.m. Only one entrance shall be open after the public business hours. Factors to be considered in which identification may be requested include, but are not limited to: the security guard or investigator does not recognize the individual; the behavior of the individual, and, accessibility to office areas, work areas and restricted access areas. All persons entering into the buildings of the Capitol Complex may be required to wear their government photo identification card outside their clothing at all times when it has been determined by the Director of the Department of Police that security concerns warrant such display. All visitors to the Capitol Complex who do not possess a government photo identification card will be required to sign a logbook as they enter the buildings. Visitors will be issued a visitor badge. Lobbyists or vendors or their employees, and employees of State agencies that do not issue photo identification cards shall be issued photo identification cards by the Secretary of State Department of Physical Services.

- d) All persons and vehicles entering into the Capitol Complex and its buildings may be subject to search, including, but not limited to, inspection of vehicles, trunks, parcels and packages, metal detector screening, X-Ray scans and inspection of bulky personal items brought into the Capitol Complex.

- e) Firearms, fixed blade knives and knives with a blade exceeding 4 inches in length are prohibited in the Capitol Complex, except those

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posessed by law enforcement personnel in the performance of their official duties, or unless previously authorized by the Director of the Department of Police.

- f) Public access to any building or area of the grounds may be restricted, if it is determined by the Director of the Department of Police that a situation has arisen that threatens the security of persons and buildings within the Capitol Complex.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 15259 effective November 7, 2001, for a maximum of 150 days)

Section 2005.40 Prohibited Activities EMERGENCY

- a) No animals, except guide dogs to assist handicapped persons, or dogs utilized by police officers in the performance of their official duties, shall be permitted in the buildings in the Capitol Complex.
- b) No person or organization shall camp, erect a tent, monument (except as authorized by the Secretary of State to commemorate a deceased public official or a historical event), structure, portable toilet, platform, sign, or similar device on the grounds of or within the State Capitol, Visitors' Center, the State Library, the Howlett Building, or the Stratton Building, except as provided in subsection (i)(h) of this Section.
- c) No person or organization shall block, obstruct, or impede any doorway, stairway, corridor, or elevator in the Capitol Complex.
- d) No demonstrations are allowed above the first floor of the Capitol Building; this includes singing, chanting or shouting in a loud voice of the type that could interfere with the business conducted in the building.
- ed) No banners, posters, placards, signs or symbols may be carried above the first floor of the Capitol Building. No sticks, poles, or laths may be used to carry any sign or placard into the buildings. No chains or ropes may be carried into the buildings, except by authorized workers and State employees, with the permission of the Director.
- fe) No person or group of persons shall use any electronic loudspeaker, bullhorn, or other amplifying device within the Capitol Complex buildings or grounds, unless prior permission of the Director is obtained pursuant to Section 2005.50(d) of this Part. Permission will be granted for demonstration only.
- gf) No banners, posters, placards, signs, or symbols may be affixed in any way by any person to the railing of the second, third or fourth floor of the State Capitol Building. No banners, posters, placards, signs or symbols for demonstration purposes may be affixed in any way to the walls, railings, floors, or ceilings of any of the buildings in the Capitol Complex.
- hg) No banners banner, posters, placards placard, signs or symbols may be

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displayed for more than two weeks within a six month period.

ih) No displays or structures (including tents) in the buildings or on the grounds may be erected without the permission of the Director pursuant to Section 2005.50(d) of this Part. Permission shall be granted only if the display structure is part of symbolic expression in the exercise of free speech guaranteed by the First Amendment to the United States Constitution and Article I, Sections 4 and 5 of the 1970 Illinois Constitution. No more than 2 tents or small structures may be erected at the location designated by the Director, which location will not impede pedestrian or vehicular traffic or substantially damage the Capitol grounds i.e., damage to grass or grounds which would require replacement. The only locations which are authorized for structures and displays shall be the paved areas between the Howlett Building and the Capitol Building, in the north front of the Howlett Building and between the Stratton Building and the Archives Building. No structures or displays will be placed on grass areas which have an underground watering system on them.

ji) The display of commercial signs, placards, or other forms of advertisement, or the sale, display, or vending of commercial products or articles in the buildings or on the grounds is prohibited, except pursuant to contract with the State Government.

kj) The noise level from demonstrators, picketers, and protesters of any group or groups, or as individuals within the Capitol Building rotunda shall not exceed a decibel level of 75dB(A) 05dB(A). If the noise level from these persons exceeds this limit, the Director shall direct all persons to decrease the noise or to reduce the numbers of people within the Capitol Building to lower the noise level to the specified level, which shall not exceed 75dB(A).

lk) No person or organization shall damage, destroy, remove, deface, defile, tarnish, or injure in any way State property within the buildings or on the grounds thereof. All persons and organizations engaging in this type of prohibited activity will be responsible for all costs, expenses, damages, and liability resulting from their own actions or the actions of persons or organizations controlled or directed by them at the time of the damage to state property.

ml) No smoking in the public areas of all buildings, unless in a designated smoking area.

nl) No skateboard riding, rollerblading, or skating is allowed in the Capitol Complex.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 15259, effective November 7, 2001, for a maximum of 150 days)

Section 2005.50 Demonstrations

EMERGENCY

a) The holding or conducting of any demonstration, public meeting, gathering, or parade on or in the buildings or their grounds is

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prohibited unless a permit for such activity is issued by the Director. A Special Events form ~~written-request~~ addressed to the Department of Physical Services, Special Events Division ~~Director~~ must be submitted at least 48 hours in advance of the event to be scheduled, unless the requestor can show by the preponderance of the evidence, that the cause or reason for the requested demonstration, meeting, gathering or parade was not known, contemplated, reasonably foreseeable, resulted from changed circumstances, or in existence within those 48 hours, except that no such request shall take precedence over an activity which was previously scheduled by the Director.

b) The Special Events form ~~written-request~~ shall state the name of the individual, organization, corporation, association, society, fraternity, sorority, club, or group of whatever kind or nature seeking to use the building or the grounds. The request shall also list the names and addresses of all officers or leaders, the particular facility desired to be used, the dates and times sought, equipment to be used, or supplied, and the estimated number of the participants.

c) Any group seeking a permit under this Section ~~hereunder-that will have 100 or more participants-at-any demonstration~~ shall have one marshal per 25 participants. Marshals will be identified by insignia supplied by the Director. The marshals' duties shall include making certain, to the best of his/her ability under the circumstances, that the conditions of the permit are met, that compliance with the rules occurs, that the demonstration remains peaceful and orderly and the participants remain within the physical boundaries of the permit.

d) The Director will issue a permit to an applicant unless he finds that the intended activity will:

- 1) Unreasonably interfere with the movement of vehicular traffic in the parking lots of the Capital Complex, or persons within the buildings or on the grounds;
- 2) Not occur in the area designated and will create or cause a health and/or safety hazard and will impede substantially the performance of public business to be conducted in the area;
- 3) Endanger the health and safety of the permit applicants or other persons;
- 4) Be a commercial activity; or
- 5) ~~Conflict~~ ~~Conflicts~~ in date, time, and place with a previously scheduled activity of another applicant or a government agency.

All Special Events forms are date and time stamped upon receipt and permits are issued on a first-come, first-served basis.

e) ~~Applicants may also be denied a permit if past demonstrations involving their particular organization/individuals have resulted in removal, arrest, or other violation of the Criminal Code.~~

fe) Applicants denied a permit may modify their request to meet the objection and concerns of the Director and may resubmit their application for consideration.

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gf) A Special Events form addressed ~~written--request--in--letter--form~~ addressed to the Department of Physical Services, Special Events Division ~~Director~~ shall be considered an application. A written response from the Director approving part or all of the application shall be considered the permit. The written response shall state the reasons for denying in whole or in part the request. The Director is required to show by the preponderance of the evidence that an unreasonable interference will occur or is occurring when he denies the request in whole or in part.

hg) A person or organization denied a permit in whole or in part, may appeal the denial to the Secretary of State. The appeal shall be in writing, stating the specific reasons why the Director's decision was incorrect and what relief is sought. The appeal must be submitted at least 24 hours prior to the time of the requested demonstration, to allow the Secretary time within which to consider and decide the appeal. The Secretary's decision shall be in writing, and shall be made at least 2 hours prior to the requested demonstration's time of starting. The Secretary's decision shall be final for the purposes of the Administrative Review Act [735 ILCS 5/Art. III] ~~1907--Rev--Stat--1907--ch--110--par--3--101--et--seq--~~.

i) Permitted demonstrations may be canceled without prior notice by the Director of the Department of Police, if security concerns warrant such an action.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 15259, effective November 7, 2001, for a maximum of 150 days)

Section 2005.60 Use of Building for Non-Demonstration Activity or Fund Raising Events **EMERGENCY**

a) Organizations that apply to sell baked goods, cards, or other items with a price not to exceed \$50.00 in the buildings specified in Section 2005.10 of this Part shall submit a Special Events form to the Department of Physical Services, Special Events Division ~~an application--by--letter--to--the--Director~~ at least 48 hours in advance of the desired start of their sale. The application shall state the name of the organization, the date requested for the sale or activity, the location requested, and any alternative dates and locations.

- 1) Only one activity at a time will be approved by the Director for each location.
- 2) The only locations allowed for such sales are the northwest lobby of the Howlett ~~Centennial~~ Building, the area on the west side of the Stratton Building Cafeteria, and the designated first floor hallway area ~~in--front--of--the--cafeteria~~ at the Department of Driver Services Building at 2701 South Dirksen Parkway.
- 3) Sales may occur during the public business hours.
- 4) The Director will only approve applications to sell submitted by

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not-for-profit organizations, who must submit a copy of the organization's tax exempt number form ~~received--from--the--United States--Internal--Revenue--Service--pursuant--to--26- CFR-1-50(a)-(2)-as in-effect-on-July-17-1989--(no--subsequent--amendments--or--editions)-~~ No organization without a tax exempt number will be allowed to sell in the areas designated.

b) No commercial activity, such as selling real estate, automobiles, or insurance, is allowed in the buildings specified in Section 2005.10 of this Part.

c) No alcohol or alcoholic beverages are allowed to be sold, consumed, delivered, or used in the buildings specified in Section 2005.10 of this Part, except as permitted by Section 6-15 of the Liquor Control Act of 1934 [235 ILCS 5/6-15] ~~1907--Rev--Stat--1907--ch--437--par--1307-~~

d) All organizations that are permitted to use the Capitol Complex buildings or the buildings specified in Section 2005.10 of this Part shall indemnify the State and the Secretary of State from any injury or damage caused by their members' or participants' negligence or willful misconduct. The members who cause the damage or injury are primarily responsible. Such organization shall also restore the used areas to their pre-use appearance and condition, less reasonable wear and tear, and the Director shall be the final decision-maker on the clean-up of the used area. This subsection applies to those organizations listed in subsection (a) of this Section and any other organization receiving permission from the Director to use the specified buildings for meetings or parties.

e) All Special Events forms requesting ~~requests--to use of the buildings specified in Section 2005.10 of this Part, or the Capitol Complex will be submitted to the Department of Physical Services, Special Events Division in-writing--to--the--Director~~ at least 48 hours in advance of the proposed starting time of the activity.

f) Nothing in this Section shall give the Director authority over the use of the Chambers, meeting rooms, or committee rooms of the General Assembly. The use of each room shall be decided according to legislative rules.

g) Decorations cannot be applied by tape, glue or any type of adhesive material to any part of the building, unless special arrangements have been made and approved by the Special Events Coordinator. No candles, confetti, balloons, lapel stickers or any stickers with adhesive are allowed. No smoke/fog machines are permitted. Any other special effects equipment must have prior approval of the Special Events Division.

h) Permitted uses of the Capitol Complex may be canceled without prior notice by the Director of the Department of Police, if security concerns warrant such an action.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 15259, effective November 7, 2001, for a maximum of 150 days)

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Section 2005.70 Distribution of Leaflets and Solicitation of Funds

EMERGENCY

- a) No organization, including charitable organizations and political parties or candidates, shall distribute leaflets to, or solicit and collect funds from, persons entering or in the buildings specified in Section 2005.10 of this Part, except from public sidewalks, walkways within the Capitol Complex, or on the north plaza of the Howlett Centennial Building.
- b) No such distribution or solicitation shall be allowed in any automobile parking area under the control of the Director in Springfield or within business areas in the buildings specified in Section 2005.10 of this Part.
- c) Activities included in subsection (a) of this Section shall not be allowed without the written permission of the Director, which shall not be withheld if the request pertains to political activity or charitable solicitation.
- d) All requests to engage in such activity must be submitted in writing at least 48 hours in advance of the activity, unless the criteria for requests within less than 48 hours set forth in Section 2005.50(a) of this Part are met.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 15259, effective November 7, 2001, for a maximum of 150 days)

Section 2005.80 Secretary of State Police Department

EMERGENCY

- a) The Secretary of State's Police Department shall enforce all laws within the Capitol Complex and the buildings specified within Section 2005.10 of this Part.
- b) The Illinois statutes applicable to the presentation of order and peace within the specified buildings include, but are not limited to:
- 1) disorderly conduct in the General Assembly (Section 12 of "AN ACT to revise the law in relation to the General Assembly" (Ill. Rev. Stat. 1987, ch. 63, par. 12));
 - 12) criminal damage to State state supported property (see 720 ILCS 5/21-4) (Section 21-4 of the Criminal Code of 1961 (the Code) (Ill. Rev. Stat. 1987, ch. 38, par. 21-4));
 - 3) the unauthorized possession of firearms on state property (Section 21-5 of the Code);
 - 24) trespass to State state lands (see 720 ILCS 5/21-5) (Section 21-5 of the Code);
 - 35) the unauthorized possession of explosives (see 720 ILCS 5/26) (Section 20-2 of the Code);
 - 46) mob action (see 720 ILCS 5/25-1) (Section 25 of the Code);
 - 57) disorderly conduct (see 720 ILCS 5/26) (Section 26 of the Code);
 - 8) interference with public officials (Section 31 of the Code);

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- 69) interference with judicial procedure (see 720 ILCS 5/12-9) (Section 32 of the Code); and
- 710) threatening a public official (see 720 ILCS 5/12-9) (Section 12-9 of the Code).

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 15259, effective November 7, 2001, for a maximum of 150 days)

Section 2005.90 Severability

EMERGENCY

If a court of competent jurisdiction shall hold any provision of this Part to be invalid, that holding shall not affect the remaining portions of this Part. If any part of these rules shall be held by a court of competent jurisdiction to be invalid, such holding shall not affect the remaining portions of this Part.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 15259, effective November 7, 2001, for a maximum of 150 days)

ILLINOIS DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

- 1) Heading of the Part: Child Health Examination Code
- 2) Code Citation: 77 Ill. Adm. Code 665
- 3) Register citation to Notice of Proposed Rules: 25 Ill. Reg. 14315; November 9, 2001

4) Dates, Times and Locations of Public Hearings:

November 29, 2001
1:00 - 3:00 p.m.
Illinois Department of Public Health
Penta Building, 2nd Floor
828 South Second Street
Springfield, Illinois 62701

- 5) Other Pertinent Information: The hearing will be held for the sole purpose of gathering public comment on the proposed amendments. Persons interested in presenting testimony at this hearing are advised that the Department will adhere to the following procedures in the conduct of the hearing:

A. Each person presenting oral testimony shall provide to the hearing officer a written copy of such testimony at the time the oral testimony is presented.

B. Organizations are asked to select one spokesperson to present the views of the organization.

C. The hearing is intended as a forum for the public to make their opinions on the proposed rules known to the Department.

D. The hearing officer may impose a time limit for testimony if necessary to allow each person who wishes to speak time to do so. No person will be recognized to speak for a second time until all person wishing to testify have done so.

E. In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the hearing officer may impose such other rules of procedure, including the order of the call of witnesses as he/she deems necessary.

F. Specific questions regarding the proposed rules should be submitted in writing and will receive a written response from the Department following the public hearing.

- 6) Name and Address of Agency Contact Person: Questions regarding the public hearings shall be directed to:

ILLINOIS DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

Peggy Snyder
Illinois Department of Public Health
535 West Jefferson Street, 5th Floor
Springfield, Illinois 62761
(217) 782-2043
e-mail: rules@idph.state.il.us

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of November 6, 2001 through November 13, 2001 and have been scheduled for review by the Committee at its December 18, 2001 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
12/20/01	Carnival-Amusement Safety Board, Carnival and Amusement Ride Inspection Law (56 Ill Adm Code 6000)	9/21/01 25 Ill Reg 11947	12/18/01
12/20/01	Department of Natural Resources, Land and Water Conservation Fund Grant Program (17 Ill Adm Code 3030)	9/14/01 25 Ill Reg 11714	12/18/01
12/20/01	Department of Human Services, Temporary Assistance for Needy Families (89 Ill Adm Code 112)	9/7/01 25 Ill Reg 11326	12/18/01
12/20/01	Department of Transportation, Minimum Safety Standards for Construction of Type I School Buses (92 Ill Adm Code 440)	6/22/01 25 Ill Reg 7563	12/18/01
12/20/01	Department of Transportation, Minimum Safety Standards for Construction of Type II School Buses (92 Ill Adm Code 442)	6/22/01 25 Ill Reg 7599	12/18/01
12/22/01	Department of Revenue, Retailers' Occupation Tax (86 Ill Adm Code 130)	9/21/01 25 Ill Reg 12065	12/18/01
12/23/01	Department of Revenue, Income Tax (86 Ill Adm Code 100)	9/21/01 25 Ill Reg 12076	12/18/01
12/23/01	Department of Corrections, Correctional Industries (20 Ill Adm Code 117)	9/7/01 25 Ill Reg 11200	12/18/01

PROCLAMATIONS

2001-600

A DAY OF PRAYER AND FASTING

WHEREAS, on Tuesday morning, September 11, 2001, terrorists attacked America in a series of despicable acts of war; and

WHEREAS, terrorists continue to wage their war of fear through tainted mail and threats of future attacks; and

WHEREAS, our sons and daughters have answered the call of duty and are now engaged in operations in and around Afghanistan; and

WHEREAS, President Bush must make daily decisions regarding the safety of our nation and our troops; and

WHEREAS, our nation's leaders are in need of prayer for safety, guidance, wisdom and discernment; and

WHEREAS, America is the world's sanctuary for people of any faith—a place where religious differences are recognized and tolerated, resulting in national unity; and

WHEREAS, civilized citizens of every faith condemn this evil violence and mourn with those who have suffered loss; and

WHEREAS, our nation has been called to a focused time of prayer;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 3, 2001, as A DAY OF PRAYER AND FASTING in Illinois.

Issued by the Governor November 1, 2001.

Filed by the Secretary of State November 8, 2001.

2001-601

EFFINGHAM STATE BANK DAY

WHEREAS, in 1881, Dr. Henry Eversman, Hon. Benson Wood, Gerhard H. Engbring, and Virgil Wood established the private bank of Eversman, Wood and Engbring; and

WHEREAS, Eversman, Wood, and Engbring later became a State bank; and

WHEREAS, the historical path of honor, integrity, and stability, along with the financial products and services to support the Effingham community, is not replicated by any other community bank in the area; and

WHEREAS, in November 2001, Effingham State Bank will celebrate its 120th Anniversary;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 8, 2001, as EFFINGHAM STATE BANK DAY in Illinois.

Issued by the Governor November 1, 2001.

Filed by the Secretary of State November 8, 2001.

2001-602

ETTA MOTEN BARNETT DAY

WHEREAS, Etta Moten was born in 1901 in Antonio, Texas, and attended schools in Waco, Texas, Los Angeles and Kansas City, Kansas, before receiving her bachelor of arts degree from the University of Kansas in 1931; and

WHEREAS, during her senior year at the University of Kansas, Ms. Moten was discovered while performing in a recital and invited to join the prestigious Eva Jessy Choir in New York, which she promptly did after graduation; and

WHEREAS, she went on to achieve stardom in the theater, performing in legendary Broadway productions of Sugar Hill, Lysistrata, and Porgy and Bess; and

WHEREAS, Ms. Moten was successful in breaking down major motion picture barriers for black actresses in 1933 when she appeared in an uncredited cameo role in "Gold Diggers of 1933"; and

WHEREAS, the undocumented appearance marked one of the first times a black actress portrayed a beautiful young woman, not a cook, maid or other domestic; and

WHEREAS, in 1934 Ms. Moten married Claude Barnett, founder and first director of the Associated Negro Press, the nation's first news-gathering organization for the American black press; and

WHEREAS, with her husband, Etta Moten Barnett was an Ambassador of Good Will for the United States at the independence celebrations of Ghana, Nigeria, and Zambia, and at the 1960 inauguration of the first president of Ghana; and

WHEREAS, after her husband's death in 1967, Ms. Barnett became more active in domestic affairs, including working with Chicago's DuSable Museum and Lyric Opera; and

WHEREAS, Ms. Barnett is a Trustee of the African American Institute in New York City, a member of the National Council for Community Services to International Visitors, a founding member of the Women's Board of the Field Museum of Natural History, a member of the Board of Directors of the National Association of Negro Musicians, and a board member for other Chicago-area organizations and institutions;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 11, 2001, as **ETTA MOTEN BARNETT DAY** in Illinois.

Issued by the Governor November 1, 2001.

Filed by the Secretary of State November 8, 2001.

2001-603

SCHOOL BREAKFAST WEEK

WHEREAS, for more than 30 years the School Breakfast Program has contributed to the health and educational development of Illinois students by making nutritious morning meals available in schools; and

WHEREAS, almost 54 percent of Illinois schools - more than 2,400 - offer school breakfast to help their students start the day right; and

WHEREAS, in order to reach our educational goals - especially the goal of having all Illinois children reading at grade level by the end of the third grade - we must make sure they have all the resources they need, including good nutrition; and

WHEREAS, students must arrive at school ready to learn, and breakfast is an important element in giving students the energy they need to think, learn and grow; and

WHEREAS, research has repeatedly shown that school breakfast can help boost student performance while cutting absenteeism; and

WHEREAS, the School Breakfast Program can benefit students of all ages and economic classes; and

WHEREAS, the number of schools and children participating in the School Breakfast Program nationwide has doubled over the past decade;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 11-17, 2001, as **SCHOOL BREAKFAST WEEK** in Illinois.

Issued by the Governor November 1, 2001.

Filed by the Secretary of State November 8, 2001.

2001-604

TIMOTHY N. SPREITZER DAY

WHEREAS, public schools are the backbone of our democracy, providing young people with the tools they need to maintain our State's precious values of freedom, civility, and equality; and

WHEREAS, the State of Illinois shall provide for an effective and efficient system of high quality public educational institutions and services, and a coordinated workforce development system; and

WHEREAS, Timothy N. Spreitzer, a native of Des Plaines, Illinois, a 1995 graduate of Elk Grove High School, and a 1998 Western Illinois University graduate has served in State government for nearly four faithful and dedicated years; and

WHEREAS, Timothy has risen from the ranks of a Dunn Fellow and worked as an Education and Workforce Policy Advisor for two governors, a feat that most people never accomplish; and

WHEREAS, Timothy has earned a reputation for accuracy, responsiveness, and the ability to explain complex issues in simple, understandable terms; and

WHEREAS, Timothy's witty charm, eloquent prose, and open heart have touched thousands of people throughout Illinois; and

WHEREAS, like the citizens of Illinois, Timothy N. Spreitzer is one of Illinois' "most precious resources"; and

WHEREAS, although it is a tragedy to lose a young man of his caliber, his impact will be felt by generations to come; and

WHEREAS, true success lies in the journey, and Timothy's has just begun;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 2, 2001, as **TIMOTHY N. SPREITZER DAY** in Illinois.

Issued by the Governor November 1, 2001.

Filed by the Secretary of State November 8, 2001.

2001-605

ANDE YAKSTIS DAY

WHEREAS, Ande Yakstis is retiring from a distinguished 41-year career as senior reporter at *The Telegraph*, accounting for nearly one-fourth of that historic Alton newspaper's 165-year history; and

WHEREAS, Yakstis began covering Alton and Madison County in 1960 and developed a reputation as an investigative reporter who exposed organized crime operations; and

WHEREAS, Yakstis and Ed Pound were nominated for a Pulitzer Prize and won the national Associated Press Managing Editors Award for their 1969 stories on corruption in the Illinois Supreme Court; and

WHEREAS, Yakstis has been awarded the Illinois Associated Press first place award for news and feature writing 10 different times; and

WHEREAS, Yakstis used his writing and reporting ability to champion many humanitarian efforts and was presented the Brotherhood Award from African-American churches in the Alton area for his stories promoting justice and racial harmony; and

WHEREAS, Yakstis was awarded the Elijah P. Lovejoy Award in 1997 for a

lifetime of compassionate reporting and community involvement on behalf of all races and nationalities; and

WHEREAS, Yakstis is a veteran of the Korean War who has spent a lifetime as an advocate for the rights of men and women who served in the armed forces;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 8, 2001, as ANDE YAKSTIS DAY in Illinois, in honor of his service to the readers of the *Alton Telegraph* and offer best wishes for his continued success.

Issued by the Governor November 5, 2001.

Filed by the Secretary of State November 8, 2001.

2001-606

ARAB AMERICAN MONTH

WHEREAS, there are more than 400,000 Illinois residents of Arab descent, both Muslim and Christian faiths, who have chosen Illinois as their home and have proudly shared their culture, heritage and talents with our State; and

WHEREAS, citizens of Arab descent have contributed in all walks of life, including government, education, science, culture, business medicine and the civic well-being of our nation and of our community; and

WHEREAS, Arab Americans have made contributions to our society and have included among their ranks such notable Americans as: Michael DeBakey, the first heart transplant surgeon; John Sununu, Chief of Staff to President Bush; Senator George Mitchell, former majority leader and chief negotiator for Ireland's Peace Conference; the late Sharon Christa McAuliffe, teacher and American patriot who was among the victims of the Space Shuttle Challenger disaster; Casey Kassem, popular music radio host; Danny Thomas, well known TV sitcom actor, entertainer and founder of St. Jude Children's Research Hospital; Kathy Najimy, movie actress; and many other Arab Americans who serve as positive role models in our society; and

WHEREAS, many Arab Americans have also served in the Armed Forces of the United States, including World War II, the Korean War and the Vietnam War; and

WHEREAS, the State of Illinois is a diverse community composed of many ethnic cultures including the rich Arab American culture;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 2001 as ARAB AMERICAN MONTH in Illinois.

Issued by the Governor November 5, 2001.

Filed by the Secretary of State November 8, 2001.

2001-607

CHIEF A. LEWIS LANDRY DAY

WHEREAS, A. Lewis Landry has served the Countryside Fire Protection District for more than 28 years; and

WHEREAS, A. Lewis Landry has dedicated his professional life and career to the preservation of life and property; and

WHEREAS, A. Lewis Landry has led the Countryside Fire Protection District as its Fire Chief for 16 years providing emergency fire, rescue, hazardous materials response and emergency medical services to the Villages of Hawthorn Woods, Indian Creek, Long Grove, and Vernon Hills as well as areas of Unincorporated Lake County; and

WHEREAS, under the leadership of A. Lewis Landry, the Countryside Fire

Protection District developed a strong core of officers, paramedics, firefighters and administrative staff; and

WHEREAS, under the leadership of A. Lewis Landry, the Countryside Fire Protection District improved its delivery of emergency and non-emergency services to the residents, villages and business community; and

WHEREAS, under the leadership of A. Lewis Landry, the Countryside Fire Protection District reduced its taxing rate by more than 35 percent while increasing its services; and

WHEREAS, under the leadership of A. Lewis Landry, the Countryside Fire Protection District became the first fire protection district to be recognized as an accredited agency by the Commission on Fire Accreditation International; and

WHEREAS, under the leadership of A. Lewis Landry, the Countryside Fire Protection District became the first emergency medical service provider in the State of Illinois to be recognized as an accredited agency by the Commission on Accreditation of Ambulance Services; and

WHEREAS, A. Lewis Landry supported the Lake County Fire Chiefs Association as a member, its President and liaison to the Lake County 100 Club; and

WHEREAS, A. Lewis Landry supported the Northeast Fire Chiefs Association as a member, and its President; and

WHEREAS, A. Lewis Landry supported the Mundelein and Vernon Hills Rotary International as a member and its President;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 30, 2001, as CHIEF A. LEWIS LANDRY DAY in Illinois.

Issued by the Governor November 5, 2001.

Filed by the Secretary of State November 8, 2001.

2001-608

DRUG-FREE YOUTH DAYS

WHEREAS, the Illinois Drug Education Alliance (IDEA) is presenting its 19th Annual Drug Prevention Conference, "Be Real - Play Life to Win - Be Drug Free!" on Sunday, November 18 and Monday, November 19 in Chicago; and

WHEREAS, the Illinois Drug Education Alliance feels strongly - "it is better to build children than to repair men and women"; and

WHEREAS, the Illinois Drug Education Alliance believes prevention offers individuals and communities an opportunity to stop alcohol, tobacco, and other drug problems before they start and provides hope affecting individual and community change to support healthy behaviors; and

WHEREAS, more than 1,200 Illinois young people, dedicated to the DRUG-FREE lifestyle, will participate in two days of drug prevention education and leadership training. These young people will carry the DRUG-FREE message back to their schools and communities, and become role-models to their peers; and

WHEREAS, educators, parents, volunteers, and other adults will attend and participate in the 19th Annual Illinois Drug Education Alliance Conference. These adults will train, encourage, and support young people in their choice of the DRUG-FREE lifestyle; and

WHEREAS, the Illinois Drug Education Alliance stands firmly with the Illinois Department of Human Services, Division of Community Health and Prevention and all of its Partners in Prevention - Office of the Governor, Futures for Kids - Office of the Lieutenant Governor, Office of the Attorney General, Office of the Secretary of State, Office of the State Treasurer,

Illinois Department of Transportation, Division of Public Safety, Illinois State Board of Education, Illinois National Guard, Drug Enforcement Administration, U.S. Customs Service, University of Illinois Extension, Students Against Destructive Decisions, Operation Snowball, Inc., Illinois Elks Association, Alliance Against Intoxicated Motorists and Illinois Principals Association -- and with many other State and national organizations that encourage the promotion of sound drug prevention programs;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 18-19, 2001, as DRUG-FREE YOUTH DAYS in Illinois in recognition of the Illinois Drug Education Alliance and its Partners in Prevention in bringing a DRUG-FREE message to the youth of our State.

Issued by the Governor November 6, 2001.

Filed by the Secretary of State November 8, 2001.

2001-609

FAMILY LIFE WEEK

WHEREAS, each child represents hope for our future; and

WHEREAS, the connections which foster hope are strengthened or weakened by the family interactions that occur every day; and

WHEREAS, we sometimes need to be reminded to stop and recognize the value of the simple moments in our lives; and

WHEREAS, at Thanksgiving, we celebrate the opportunity to gather with our loved ones; and

WHEREAS, we dedicate ourselves to appreciate the moments we share with those we love on holidays and throughout the year; and

WHEREAS, the Scottish Rite Masons are recognized for their many years of "Family Life programs and their current year-long campaign, Family Life: Little Things Matter";

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 18-24, 2001, as FAMILY LIFE WEEK in Illinois.

Issued by the Governor November 6, 2001.

Filed by the Secretary of State November 8, 2001.

2001-610

FAMILY LIFE WEEK FOR THE SCOTTISH RITE-VALLEY OF PEORIA

WHEREAS, the Scottish Rite Masonic Family Life program is intended to strengthen all families with in the Peoria community; and

WHEREAS, the program for this year is entitled "Family Life: Little Things Matter"; and

WHEREAS, Masonic and community families will be honored during this special event; and

WHEREAS, the Scottish Rite-Valley of Peoria will celebrate Family Life Week From November 18-24, 2001;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 18-24, 2001, as FAMILY LIFE WEEK FOR THE SCOTTISH RITE-VALLEY OF PEORIA in Illinois.

Issued by the Governor November 6, 2001.

Filed by the Secretary of State November 8, 2001.

2001-611

FAMILY WEEK

WHEREAS, Illinois recognizes strong families are at the center of strong communities; and

WHEREAS, everyone has a role to play in making families successful, including neighborhood organizations, businesses, nonprofits, policymakers, and of course, families themselves; and

WHEREAS, during Thanksgiving week we all should take time to honor the importance of families and recognize the special connections that support and strengthen families year-round; and

WHEREAS, we all should recommit to enhancing and extending all families' connections; and

WHEREAS, with the assistance and resources of agencies and organizations such as the Alliance for Children and Families and its 350 local member agencies, we can help families of all shapes and sizes create a better future for all of Illinois and America;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 18-24, 2001, as FAMILY WEEK in Illinois.

Issued by the Governor November 6, 2001.

Filed by the Secretary of State November 8, 2001.

2001-612

PERIOPERATIVE NURSE WEEK

WHEREAS, surgery today is highly technical, sophisticated, and exacting; and WHEREAS, the perioperative registered nurse in the operating room is highly skilled in providing nursing care and managing the operating room environment;

WHEREAS, the surgical patient is experiencing a major event in their life; and WHEREAS, the perioperative registered nurse is an expert in allaying the patient's fears, preparing the patient for what will happen in the operating room during surgery, discussing how the patient will feel afterwards, and understanding the patient as a total person; and

WHEREAS, a perioperative registered nurse serves as the patient's advocate during surgery;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 11-17, 2001, as PERIOPERATIVE NURSE WEEK in Illinois.

Issued by the Governor November 6, 2001.

Filed by the Secretary of State November 8, 2001.

2001-613

ANN B. PAINTER DAY

WHEREAS, Ann B. Painter has held numerous positions in her community, including a math and U.S. History teacher in Atwood, Illinois, and a weather observer for the U.S. Government; and

WHEREAS, Ms. Painter has also been a volunteer member of several organizations, including the LaGrange Highlands Civic Association, the West Suburban Homemaker Association, and the West Central Business Association; and

WHEREAS, among her many accomplishments, Ms. Painter has helped get sewers and water for the LaGrange Highlands, and spearheaded the implementation of

paramedics throughout Lyons Township; and
WHEREAS, in 1986 Ms. Painter was named Woman of the Year by the West Suburban Chamber of Commerce;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 15, 2001, as ANN B. PAINTER DAY in Illinois, in recognition of her 50 years of community service.

Issued by the Governor November 7, 2001.

Filed by the Secretary of State November 8, 2001.

2001-614

HIGH TECH WEEK

WHEREAS, the State of Illinois supports the creation of a climate for business growth so that Illinois citizens will enjoy more jobs, better pay, and a stronger economy; and

WHEREAS, Illinois ranks fourth in employment in high tech industries, fourth in number of high tech establishments, and sixth in the export of technology; and

WHEREAS, the Chicago metropolitan region has more high tech jobs than any other urban area in the country, lending credence to Illinois' leadership role and the driving force behind the rising technology economy in the Midwest; and

WHEREAS, Illinois is recognized nationally for its renowned research institutes and universities including the Fermi National Accelerator Laboratory, University of Illinois, Northwestern University, Illinois Institute of Technology, University of Chicago and Argonne National Laboratory; and

WHEREAS, on November 19, 2001, the annual High Tech Awards ceremony will be held;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 19-23, 2001, as HIGH TECH WEEK in Illinois.

Issued by the Governor November 7, 2001.

Filed by the Secretary of State November 8, 2001.

2001-615

JOLIET PUBLIC SCHOOL DISTRICT 86 DAY

WHEREAS, the Governor of the State of Illinois is pleased to congratulate school districts as they celebrate major accomplishments; and

WHEREAS, the Joliet Public School District 86 will receive \$16,082,725 from the State of Illinois' School Construction Fund for the purpose of constructing two new elementary schools; and

WHEREAS, Joliet Public School District 86, in partnership with the City of Joliet, raised \$6,197,146 as the required match funding for the construction of two new elementary schools; and

WHEREAS, Joliet Public School District 86 has established the locations for and approved the designs of two new elementary schools buildings to open in the fall of 2004; and

WHEREAS, Joliet Public School District 86 will break ground for two new elementary schools on November 15, 2001;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 15, 2001, as JOLIET PUBLIC SCHOOL DISTRICT 86 DAY in Illinois.

Issued by the Governor November 7, 2001.

Filed by the Secretary of State November 8, 2001.

2001-616

SANDI LYNN DAY

WHEREAS, Sandi Lynn began government service on Feb. 16, 1969; and
WHEREAS, Ms. Lynn's career spans 32 years of diverse and extensive service starting as a caseworker at the Illinois Department of Public Aid and continuing through many different positions, ultimately as Public Service Administrator in the Office of Fiscal Service, Bureau of Collections; and

WHEREAS, Sandi Lynn became the first person in government in Illinois to attain the meeting and convention industry's highest designation, the Certified Meeting Professional (CMP); and

WHEREAS, she was instrumental in planning the first Governor's Conference on Long Term Care, in conjunction with five State agencies and 14 health care associations, and many other successful conferences; and

WHEREAS, in 1986, in New York, in an unprecedented acknowledgement of the government sector, as liaison to the Department of Public Aid's Public Awareness campaign, Ms. Lynn received the highest recognition awarded by the Public Relations Society of America, the Silver Anvil, in the area of Marketing Communications, for the campaign, "Child Support: It's Their Birthright"; and

WHEREAS, in 1989, Ms. Lynn was honored, along with Norman Ross, then Vice President of the First National Bank of Chicago, and Wally Phillips, WGN radio host, for 20 years of providing cash gifts to tens of thousands of Chicagoland families through the program, The Neediest Families Christmas Fund; and

WHEREAS, Sandi Lynn has ended this long and rewarding career in government service as of September 30, 2001, and the Department of Human Services, friends and family celebrate with her;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 8, 2001, as SANDI LYNN DAY in Illinois.

Issued by the Governor November 7, 2001.

Filed by the Secretary of State November 8, 2001.